

It's part of the county's ongoing efforts to control adult mosquitoes and reduce the spread of mosquito-borne illness, according to the county.

Atlantic County Public Health Officer Patricia Diamond has said this year is an extremely active season for mosquito-borne illness, not only in New Jersey but throughout the country.

Each aerial spray application will use Duet HD, the trade name for Sumithrin and Prallethrin, applied as an ultra-low volume aerosol. The Environmental Protection Agency does not require people to relocate or take special precautions during mosquito control spraying.

The rain date for all scheduled sprays will be 5 p.m. to 7 p.m. Thursday, Oct. 3.

EEE has been detected in 65 mosquito samples in 13 New Jersey counties this year. Other human cases have been confirmed in Somerset and Union counties.

Transmission is most common in and around swamps in the Atlantic and Gulf Coast states and in the Great Lakes region, according to the CDC.

Most people infected with EEE have no symptoms, but some become ill. Severe cases of EEE begin with the sudden onset of headache, high fever, chills and vomiting four to 10 days after a mosquito bite. The illness may then progress to disorientation, seizures or coma.

There is no human vaccine for EEE, but the risk of contracting it can be reduced by using insect repellent, wearing long sleeves and pants when outdoors, removing standing water from yards, cleaning gutters of water and debris, and installing and repairing window and door screens.

For more information about EEE and West Nile, visit aclinck.org/publichealth or call the Division of Public Health at 609-645-5971. For assistance in removing stagnant puddles or floodwater from a property, call the Office of Mosquito Control at 609-645-5948.

[BACK TO TOP](#)

NEWSDAY

[Long Island lawmakers to propose tougher anti-dumping rules](#)

By Robbert Brodsky

October 2, 2019

Long Island state lawmakers introduced sweeping legislation Wednesday that would make it easier to prosecute and punish individuals suspected of illegally dumping hazardous and toxic materials while better protecting the region's sole-source aquifer.

The bipartisan legislation would create a host of new laws to target the illegal disposal, possession and acceptance of solid waste and hazardous materials while amending existing laws that lawmakers say are insufficient and fail to protect the public and environment.

"With our proximity to the city, Suffolk County all too often has become a dumping ground for construction and demolition projects in the city," said Suffolk County District Attorney Timothy Sini at a news conference in Hauppauge. "It is expensive to properly dispose of solid waste, particularly when it includes hazardous or acutely hazardous materials ... And so bad actors, in an effort to line their pockets with money, will break the law."

The legislation stems from a report, unsealed last week, by a special Suffolk grand jury that was empaneled in July 2018 to investigate illegal dumping and other environmental crimes on Long Island.

The grand jury's findings were born out of "Operation Pay Dirt." The joint investigation by Sini's office and the state Department of Environmental Conservation led to a 130-count indictment — the largest bust in the state's history for the illegal dumping of construction and demolition debris — with prosecutors charging nine corporations and 30 individuals with illegally disposing of contaminated waste at 24 sites in Nassau and Suffolk counties.

The report also suggested a number of legislative and regulatory changes that were included in the bill by State Senate and Assembly lawmakers.

The measure creates a host of new felony and misdemeanor statutes, including the criminal disposal and aggravated criminal disposal of solid waste and hazardous material; scheming to defraud by disposing of the materials; criminal possession of solid waste; and the criminal acceptance of solid waste or construction debris material, hazardous substances or acutely hazardous substances.

The legislation also targets the lucrative business of mining for sand, which is used to create cement, and increases criminal penalties based on the nature and amount of the hazardous substance that is dumped and by its proximity to the region's drinking water.

Existing legislation would be strengthened to require "cradle-to-grave" documentation of solid waste, construction and demolition material.

"The communities that are being impacted by this are underserved communities," said State Sen. Todd Kaminsky (D-Long Beach), the bill's lead sponsor. "People are not going to fancy areas of Suffolk County and dumping in their parks and in their lawns."

[BACK TO TOP](#)

NEWSDAY

[Garden Detective: Houseplants that clean the air](#)

By Jessica Damiano

October 2, 2019



Gerbera (Gerber daisy), one of the plants that help reduce indoor pollutants. Photo Credit: Dreamstime

Like pets, indoor plants have long been known to reduce stress. The findings aren't anecdotal, either.

A 2016 study by Korean and Japanese researchers reported in the *Journal of Physiological Anthropology* set out to find whether interaction with indoor plants can alleviate the "great deal of stress to modern people" caused by "information

technology." The male young adult subjects were divided into two groups, one tasked with repotting an indoor plant and the other with completing an assignment on a computer. When their tasks were completed, the groups switched roles, and the researchers found "significant" differences in blood pressure and heart rate variability that showed "interaction with indoor plants may reduce psychological and physiological stress by suppressing autonomic nervous system activity."

And the landmark 1989 NASA Clean Air Study revealed that plants are the most efficient (and cost-effective) method of reducing indoor air pollution, removing such toxins as benzene and formaldehyde from the air.

If you think those can't possibly be in your home, think again. If you've got carpeting, vinyl flooring, upholstered furniture, plastic grocery bags, cigarette smoke or even a roll of paper towels laying around, you might be inhaling toxins on a regular basis. Ironically, scented air fresheners can exude harmful chemicals into our breathing space.

Opening a window and running a fan is the most effective way of replacing contaminated air with fresh air, but because airborne chemicals are mostly colorless, odorless gasses, we can't rely on our senses to alert us to take action. In addition, our climate isn't conducive to keeping the windows open 24/7 year-round.

The good news is that for low levels of toxins, such as those likely to be found in the average home, ordinary houseplants can help.

We already know the symbiotic relationship we humans have with plants: They provide us with the oxygen we need, and we exhale the carbon dioxide they require. Their absorption of our discarded carbon-dioxide filters — or cleans — the air for us. But plants can absorb many other gasses, including volatile organic compounds (VOCs) and other indoor air pollutants.

In 2016, Vadoud Niri, a chemist at SUNY Oswego, released findings from his research that proved common houseplants are effective in removing harmful compounds from the air. After a visit to a nail salon with his wife during which he became alarmed at the ambient odor from VOCs from nail polish remover, Niri set out to build upon the landmark NASA study. He found that in just 12 hours, a single bromeliad removed 80% of six different compounds from the air; dracaena was extremely efficient at removing acetone, an ingredient in nail polish remover; and spider plants drastically reduced the amount of VOCs in the air immediately upon exposure.

[BACK TO TOP](#)

NATIONAL

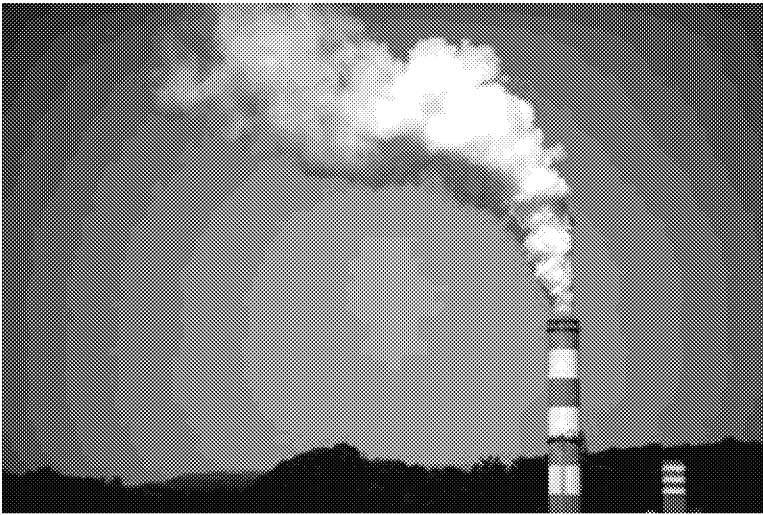
Court: Trump's EPA Can't Erase Interstate Smog Rules

<https://insideclimatenews.org/news/02102019/cross-border-smog-ruling-coal-power-trump-obama-clean-air-act>

A Trump-appointed judge was involved in the ruling. Without a strong plan for cutting coal power plant emissions, meeting ozone requirements gets much harder.

[By Marianne Lavelle](#)

Oct 2, 2019



Pollution blowing in from coal-fired power plants in neighboring states can exacerbate health problems and makes it harder to meet federal smog rules. Credit: Jeff Swensen/Getty Images

A federal appeals court panel on Tuesday struck down a 2018 Trump administration rule that had relieved states of their obligation to curb air pollution that causes smog in downwind states hundreds of miles away.

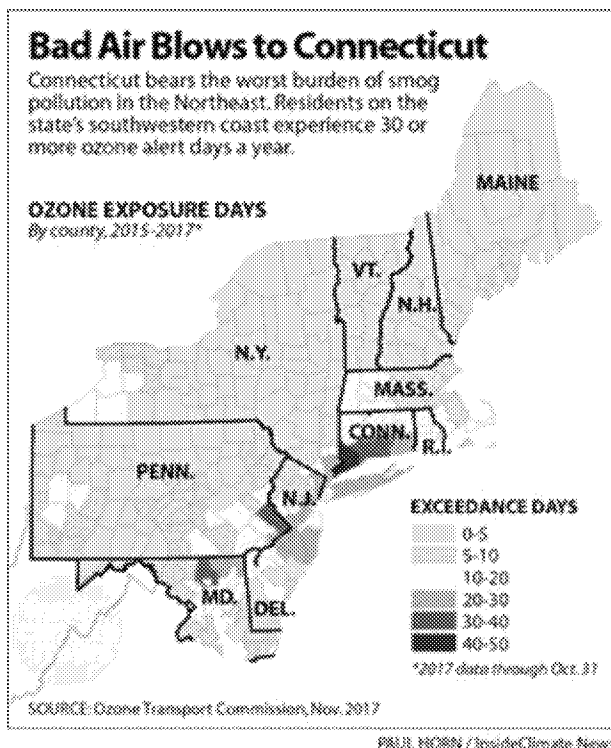
The ruling requires the Environmental Protection Agency to draw up a new plan for addressing the nation's long-standing problems with ground-level ozone, or smog, to meet the requirements of the Clean Air Act. It's a task that the Trump administration has made far more difficult by rolling back the restrictions on coal power plant pollution in the Clean Power Plan, the Obama administration's signature policy on [climate change](#).

The court's [decision](#) extends the Trump administration's losing record in defending its rollbacks of environmental regulations—this time, with the ruling coming from one of the president's own judicial picks.

Judge Gregory Katsas, who served as a deputy White House counsel before President Donald Trump named him to the District of Columbia U.S. Circuit Court of Appeals in 2017, joined Judges Judith Rogers and Thomas Griffith in finding that the administration's so-called "Close-Out Rule" was not permissible under the Clean Air Act. (Rogers was appointed by President Bill Clinton, and Griffith by President George W. Bush.)

The EPA finalized the "Close-Out Rule" last year, ending a requirement that upwind states reduce smog-forming pollution from coal power plants. The agency concluded it would not be feasible to put into place cost-effective measures, and it projected that all states would soon be in compliance with federal ozone standard without further federal action.

New York, Connecticut and New Jersey sued, arguing that they had areas with serious smog problems and would be unable to meet the federal ozone standard by the law's 2021 deadline because of pollution that drifts over their borders from other states. The appeals court panel agreed with them, ruling that the Clean Air Act's Good Neighbor Provision requires that upwind states eliminate significant contributions to other states' pollution problems without regard to feasibility.



Richard Revesz, director of the Institute for Policy Integrity at New York University School of Law, who had filed a friend-of-the-court brief in support of the states, praised the ruling. "A core obligation of the EPA under the Clean Air Act is to protect the air quality of downwind states that suffer from excessive upwind pollution," he said. "The Trump administration has consistently flouted this obligation."

The ruling is closely connected to a [decision](#) by the same court two weeks ago in a separate case, in which an Obama administration rule that would have partially addressed upwind pollution was thrown out on the same legal basis for not going far enough.

The court on Tuesday noted that the EPA had indicated it might seek rehearings before the full court of appeals on both cases. Noting how little time was remaining for the downwind states to meet the 2021 ozone deadline, the court set an expedited schedule, with the Trump administration given only until Oct. 28 to file for rehearing of the cases.

Coal Power's Smog Problem

Together, the two decisions require the EPA to go back to the drawing board to address a long-running problem for both Republican and Democratic administrations.

The genesis of much of the smog that troubles cities is pollution from coal-fired power plants and industrial smokestacks many miles away, combined with emissions from traffic on urban roadways.

Smog forms when two types of pollutants from fossil fuel burning—nitrogen oxides and volatile organic compounds—mix in a photochemical reaction. It can trigger chest pain, coughing, and airway inflammation. Long-term exposure can cause permanent lung damage or abnormal lung development in children.

Although the Obama administration's cross-state pollution rule only partially addressed the upwind pollution problem, it projected that its Clean Power Plan would result in significant reductions of smog-forming pollutants.

As a side benefit of cutting carbon emissions from coal power plants, the Obama EPA projected smog-forming nitrogen oxides would fall 22 percent by 2030 compared to the status quo without the rule in place. The Trump administration [expects](#) nitrogen oxide emissions to fall by only 0.9 percent by 2030 compared to the status quo. The Obama and Trump administrations have wildly different projections on pollution trends, though, making comparisons difficult. The bottom line is that the Trump administration sees pollution falling so quickly without regulation that no further controls are necessary.

Latest Court Loss for a Trump Rollback

Without a strong climate policy to reduce coal power pollution in place, the Trump administration has fewer options for addressing smog. Federal officials may have to look to regulation of other industrial sources of pollution if they are to meet the requirements of the law as articulated by the court.

Earthjustice, one of the environmental groups that joined in the case, said the decision will benefit more than 36 million people in the Eastern United States and Texas who live in counties that have ozone levels that exceed the federal standard.

"This win brings us one step closer to addressing the disproportionate, cumulative impacts borne by communities of color in the Houston nonattainment area every day," said Juan Parras, executive director of Texas Environmental Justice Advocacy Services.

Out of more than 50 court rulings so far on agency policy under President Donald Trump, the government has lost 93 percent, according to [tracking](#) by the Institute for Policy Integrity at New York University School of Law.

[BACK TO TOP](#)

EPA issues 'call for information' on AFO air emissions

<https://insideepa.com/daily-feed/epa-issues-'call-information'-afo-air-emissions>

October 02, 2019

EPA is seeking new information on the scope of air emissions of animal feeding operations (AFOs), after the agency and Congress largely eliminated air toxics reporting mandates for the facilities even as some environmentalists are still pushing for reporting by AFOs and ultimately regulation of the sector.

In an Oct. 1 Federal Register "[call for information](#)," EPA solicits industry input on a range of topics related to the emissions generated by AFOs, as part of the agency's long-running effort to better characterize such emissions. AFOs are significant sources of potentially harmful ammonia and hydrogen sulfide.

EPA seeks "quality-assured emissions and process data, and calculation models and methodologies that are relevant to developing emission estimating methodologies (EEMs) for emissions of volatile organic compounds (VOC)" from AFOs. The agency may use the information to supplement data gathered under its longstanding National Air Emission Monitoring Study (NAEMS) for AFOs. EPA asks for the information by Dec. 2.

EPA seeks VOC data on emissions from "animal confinement and manure storage and treatment processes at broiler, egg-layer, swine, and dairy AFOs and related process information." The agency's request comes years after EPA should have developed EEMs under a longstanding agreement with the industry.

EPA in a [June 4 rule](#) eliminated the need for AFOs to report their emissions to local emergency response authorities under the Emergency Planning and Community Right-To-Know Act (EPCRA), after Congress in 2018 provided a similar exemption from reporting under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or Superfund law. The 2018 appropriations law contained the language of the Fair Agricultural Reporting Method, or FARM Act, a bipartisan measure that provides a waiver from CERCLA -- but not EPCRA, as Democrats who backed the law have pointed out.

But environmentalists are challenging the legality of EPA's EPCRA exemption in the U.S. District Court for the District of Columbia, in Rural Empowerment Association for Community Help, et al., v. EPA, et al. Environmentalists initially filed the suit against EPA's guidance that also provided an EPCRA exemption, but EPA is seeking to dismiss claims related to the guidance which it now claims are mooted by the June 4 formal rule.

[BACK TO TOP](#)

Trump isn't wrong about California's smog, but environmentalists say he's not helping

<https://www.registercitizen.com/business/article/Trump-isn-t-wrong-about-California-s-smog-but-14485962.php>

Jennifer A. Dlouhy and Jeffrey Taylor, Bloomberg

Published 11:45 am EDT, Wednesday, October 2, 2019

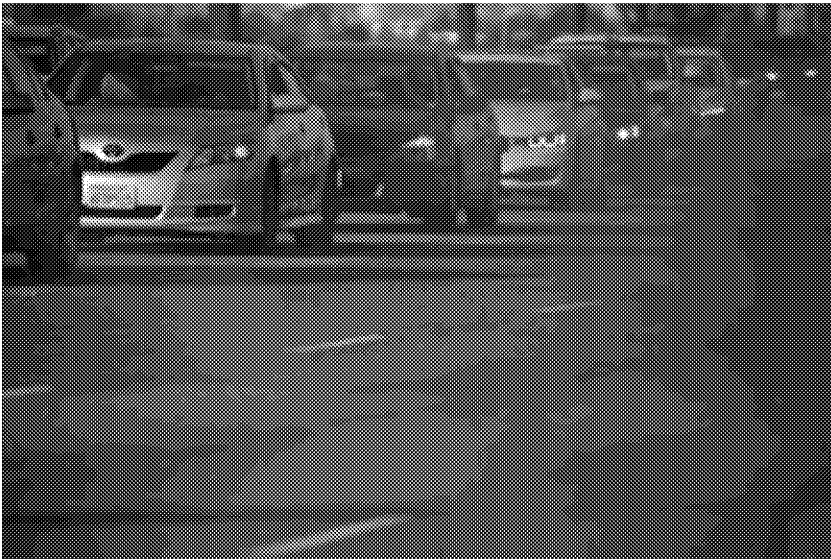


Photo: Bloomberg Photo By Patrick T. Fallon.

California has the toughest environmental laws in the nation but smog still shrouds Los Angeles on many days -- a fact that has drawn criticism from both President Donald Trump and environmentalists.

But that's where their agreement ends.

The president has turned California into a political punching bag, relentlessly attacking the state for unleashing "tremendous pollution" into the air and water. Environmentalists say his administration, which is trying to strip away two of the state's weapons for fighting the problem, bears some of the blame.

"California needs to do more, and to meet clean air standards, we're going to have to do everything," said Adrian Martinez, a staff attorney with the environmental group Earthjustice. "But the federal government has a large role to play here as well, and under the current administration, EPA has not been helping air quality -- they've actually been hurting it."

The air is so bad that the state claims seven of the top-ten most polluted cities for ozone according to the American Lung Association, with Los Angeles-Long Beach leading the list. Six of the 10 worst American cities for year-round particle pollution are also in California, according to the group.

California has been combating air pollution in creative ways for decades, pioneering policies that have been adopted by other states. But the fight is made harder by geography, especially in Southern California, where coastal winds trap pollution against mountains and a ceiling of warm air frequently pins it close to the ground. Wildfires also pump carbon monoxide and sooty particles into the air.

Recognizing California's unique challenge, Congress in 1967 gave the state license to impose its own rules to bring down emissions. California regulators first took aim at tailpipe emissions -- the volatile organic compounds and nitrogen oxide that spew from vehicles and then are baked by the sun into ozone, or smog. Later, the state required automakers to employ catalytic converters and forced filling stations to keep gasoline vapors in check.

Yet decades of steady progress have stalled as motorists drive more and trucks haul freight among the states' booming ports and warehouses.

California's pollution troubles have made it an easy target for Trump, whose Environmental Protection Agency on Sept. 24 threatened the state's federal highway funds if it didn't submit new air quality plans. Two days later, the EPA accused California of allowing pollution tied to the state's homeless population to foul nearby waterways -- an allegation state authorities dispute.

The Trump administration is also making it harder for the state to clean up.

The administration has proposed freezing tailpipe greenhouse gas emissions standards and federal fuel economy requirements at 37 miles per gallon in 2020. The EPA on Sept. 19 also moved to repeal a six-year-old waiver authorizing the state's zero-emission vehicle mandate and its own limits on tailpipe greenhouse gas emissions, which California officials maintain are essential to combat smog.

Even if federal courts restore those California programs, it won't be enough for the state to get where it needs to go. Just to comply with Clinton administration pollution targets by a 2023 deadline, the Los Angeles basin must slash nitrogen oxide emissions another 45% -- and that's on top of reductions already projected to result from current policies, including the two Trump has targeted.

The California Air Resources Board has homed in on cars and trucks -- the chief source of the state's pollution problems. And local air quality management districts have already attacked the low-hanging fruit at power plants, refineries and other stationary sources of pollution. State regulators, however, have little authority to require similar reductions from planes, trains and ships, which are generally under the federal government's control.

"The major sources for pollution that we have control over are getting cleaner," said Stanley Young, a spokesman for the air resources board that regulates cars, trucks and other mobile sources of pollution. But, he added, the major contributors of pollution in Los Angeles "are sources that only the feds have authority over, and they have done nothing to help us."

Southern California can't satisfy air quality requirements without significant controls on those mobile sources, said Philip Fine, a deputy executive officer of planning and rule development at the South Coast Air Quality Management District.

"There's very little we can do on that at the local level," Fine said. "We are being held accountable as a state for attaining the standards, but we don't have the authority to affect the sources that are causing our non-attainment."

With ships, trains and planes largely out of the state's regulatory reach, it has pursued voluntary pacts and regulations of the facilities that serve them: airports, maritime ports and railyards. That only goes so far.

"California has begged EPA to set more stringent standards for locomotives for decades but EPA has not done so because the rest of the country does not need as stringent standards to meet clean air goals," said Gay MacGregor, a 34-year veteran of the agency's transportation and air quality office.

Asked for comment, EPA spokeswoman Molly Block pointed out that California has been granted waivers authorizing the state to regulate emissions from a wide variety of vehicles, including ocean-going vessels that dock at its ports. "EPA and its state and local partners continue to see substantial reductions in emissions that contribute to ozone, particulate matter and other criteria pollutants across the country," Block said.

Tougher requirements are on the way in California for some targets. For example, the air resources board in June adopted a regulation to require zero-emission passenger shuttles at the largest airports. The agency is requiring public transit agencies to shift to zero-emission buses by 2040. And the South Coast air agency is aiming to propose a rule targeting warehouse emissions next year.

The state is also seeking to rein in nitrogen oxide emissions from heavy-duty diesel trucks. Both California regulators and the EPA are writing tougher requirements targeting that pollution.

Environmentalists are pushing the state to go beyond traditional regulations by making local planning decisions that discourage driving. Officials should be doing more to encourage Californians to take public transit, bike or walk, said David Pettit, a senior attorney with the Natural Resources Defense Council.

Activists say the state needs to get more aggressive where it does have control.

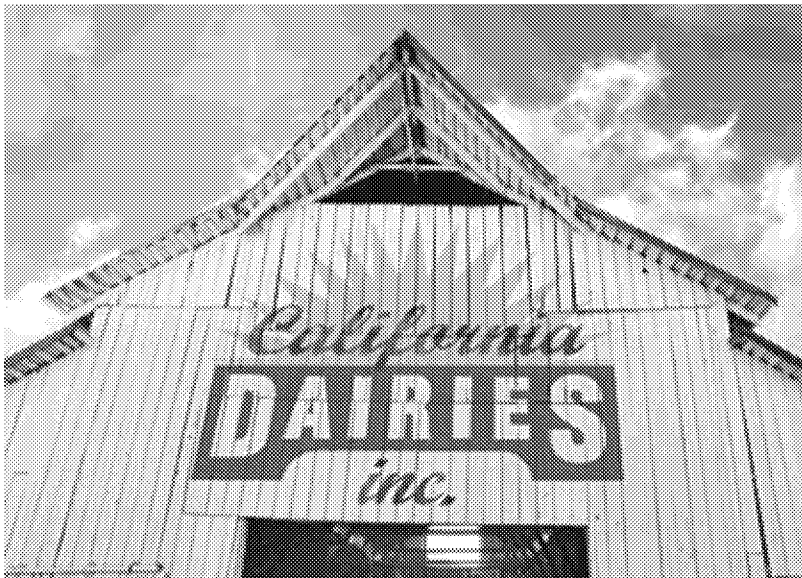
"Given the scope of our challenge," Earthjustice's Martinez said, "we really need to go to zero emissions in as many places as possible."

[BACK TO TOP](#)

EPA fines local company for minor violations

<http://www.thesungazette.com/article/news/2019/10/02/epa-fines-local-company-for-minor-violations/>

Posted date: October 02, 2019



EPA fines eight California facilities \$18,780 and requires improved chemical safety to comply with Clean Air Act
[@TheSunGazette](#)

A local company was fined by the U.S. Environmental Protection Agency (EPA) last week over minor violations of the federal Clean Air Act's chemical safety requirements.

On Sept. 24, the EPA announced settlements with eight industrial facilities in California, including Visalia-based California Dairies, Inc.'s facility in Fresno. The agreements were reached under EPA's expedited settlements policy, which is only used in certain circumstances to address minor, easily correctable violations. The companies have corrected the violations and paid fines totaling \$18,780. California Dairies, Inc. was fined \$3,600.

"Ensuring facilities maintain an updated Risk Management Plan is critical," said EPA Pacific Southwest Regional Administrator Mike Stoker. "These actions ensure that facilities handling dangerous materials are minimizing potential impacts to the environment and the surrounding community."

EPA inspections found the eight companies violated the Clean Air Act's Chemical Accident Prevention regulations by failing to review and update facility Risk Management Plans; failing to design and maintain safe facilities; failing to conduct periodic compliance self-audits; failing to use updated population data in consequence analysis; or failing to post information on hazardous substances for employees.

The list of industrial operations also included: Foster Farms Belgravia Plant in Fresno, \$6,600; The Wine Group in Ripon, \$2,400; Ratto Bros. Inc. in Salida, \$600; 6th Street Cooling in Holtville, \$1,620; JR Simplot Company's Helm Plant in Helm, \$1,800; California Resource Production Corp., Grubb Lease Gas Plant in Ventura, \$1,600; and Compton Ag Services LLC in Blythe, \$2,000.

The Clean Air Act's General Duty Clause requires owners and operators of certain industrial sites to design and maintain safe facilities and minimize the consequences of releases. Facilities with significant quantities of toxic substances must develop and implement a Chemical Accident Prevention or Risk Management Program.

When properly implemented, risk management plans help prevent chemical releases and minimize their potential impacts at facilities that store large amounts of hazardous substances and flammable chemicals. Facilities are required to update and resubmit their risk management plans at least once every five years. The plans are used by EPA to assess chemical risks to surrounding communities and to prepare for emergency responses.

[BACK TO TOP](#)

Courts say EPA not doing enough to fight cross-state smog

By Rebecca Beitsch 10/02/19 12:15 PM EDT

<https://thehill.com/policy/energy-environment/464032-courts-deal-blow-to-epa-as-states-push-for-help-battling-smog>



Federal judges dealt a blow to the Trump administration late Tuesday, finding the Environmental Protection Agency (EPA) hasn't done enough to limit cross-state air pollution. © Getty Images

A panel of judges for the D.C. Circuit Court, which includes a Trump appointee, ordered the EPA to come up with a new plan for how to address smog that travels to the densely populated Northeast, where states are failing to meet federal air quality standards.

The decision follows a similar ruling in a Wisconsin case a few weeks ago that said the Clean Air Act's "Good Neighbor provision" compels EPA action.

The states that brought the case — New York, Maryland, Connecticut, New Jersey, Massachusetts and Delaware — argue the EPA hasn't done enough to help them meet a 2021 deadline for reducing ozone pollution, more commonly referred to as smog. The EPA argued states are on track to meet those standards by 2023.

"Those states pointed out to the court that it was irrelevant and insufficient for EPA to say ozone levels would be reduced sufficiently by 2023 because of course there is a two year disconnect," said John Walke, clean air director for the Natural Resources Defense Council.

An EPA spokesperson said, "We are reviewing the opinion."

Walke said the EPA historically has required downwind states to install better pollution control on coal burning power plants.

But this decision comes as the EPA is facing other [legal challenges](#) after replacing an Obama-era power plant pollution rule with one that critics say does [almost nothing](#) to stem pollution.

The ruling does note the EPA “still retains some flexibility” in how it may respond. That includes giving those Northeast states a one-year deadline extension to meet smog standards or arguing that it would be impossible to push through the lengthy bureaucratic process to reduce pollution in time to meet the 2021 deadline.

“The court gave them a pretty big out that they will run through because it’s the Trump administration,” Walke said, referring to numerous rollbacks undertaken while Trump has been in office. “But those options still place a burden and a responsibility on the agency to explain and justify its decisions in a rational manner. EPA was not even planning to do that before losing this court decision.”

[BACK TO TOP](#)

EPA argues removing Leavittsburg dam will improve water quality

<https://www.wkbn.com/news/local-news/epa-argues-removing-leavittsburg-dam-will-improve-water-quality/>

Residents still have their concerns about flooding, health and recreation

by [Jacob Thompson](#)

Posted: Oct 1, 2019 / 11:13 PM EDT / Updated: Oct 1, 2019 / 11:51 PM EDT

There are nine dams along the Mahoning River that the Ohio Environmental Protection Agency has recommended be removed to allow for a free-flowing river that will continue to clean itself. One of those dams is in Leavittsburg but some of the people there are against removing it.

Residents are concerned about flood safety, health issues and recreation.

A crowd of about 75 people gathered in Warren Township Tuesday evening to hear about the EPA’s interest in removing the dam.

The EPA suggested water quality is worse with a dam.

“Whether it’s the Mahoning or Cuyahoga River, we have the same types of water quality issues because a dam is a structure and it alters a river’s behavior,” said Bill Zawiski, Ohio EPA supervisor of water quality.

During his presentation, he told the audience about similar work in the past.

He said a normal, flowing river can help wildlife and dams don’t affect flooding.

“All these dams that we’re talking about on the Mahoning are what we call low head dams, so they don’t offer any flood control,” Zawiski said.

He went on to say this will speed up the river, but alternating could expose some sediment.

“When the water goes down, it moves faster. It’s less stagnant so that is one less risk. Does the sediment get exposed and is that potentially a risk? If that sediment is contaminated, yes it is.”

The people who showed up had a lot of questions. Zawiski addressed concerns about recreation on the river, including some boating restrictions.

“The question was, if your pontoon boat is on the dam pool, what are the chances of it moving up and down once the structure is out? Probably very small,” he said.

Throughout the meeting, Zawiski told the crowd the dam is not going to last forever.

“Sooner than later, that dam is going to get blown up by the river because it is not a big, massive structure,” he said.

It’s up to the Trumbull County MetroParks to decide if the dam comes down. A member said no formal vote has taken place yet.

EPA approves plan to improve water quality in Virginia

<https://www.wdbj7.com/content/news/EPA-approves-plan-to-improve-water-quality-in-Virginia-561974341.html>



MGN

Posted: Wed 11:17 AM, Oct 02, 2019

On October 2, the United States Environmental Protection Agency announced that it has approved Virginia's \$100 million plan to implement important water infrastructure projects.

The plan is composed of a \$32.5 million grant from the EPA's Clean Water State Revolving Fund (CWSRF), \$6.5 million in state matching funds, repayments from past CWSRF loans and interest earnings.

"The revolving fund program is essential to providing all Americans the clean and safe water they deserve," said EPA Mid-Atlantic Regional Administrator Cosmo Servidio. "EPA is proud to support Virginia's plan and remains committed to helping communities with infrastructure improvements that protect their water resources."

Some of the projects being funded are focused on upgrading wastewater treatment plants. The city of Covington will receive funds for a new storage tank and equipment that will help the plant during wet weather, so that there is no overflow.

The town of Tazewell will use funds to rehabilitate one of its wastewater treatment plants, and \$37.5 million will go to the Harrisonburg-Rockingham Regional Sewer Authority to make upgrades to its system.

Other funds will go toward protecting waterways and other habitats. According to the EPA, the Nature Conservancy will receive \$20.1 million to purchase a conservation easement in the Clinch River Watershed, which will help to protect forests, streams and rivers and other habitats.

Additionally, James City County will receive funds for a shoreline stabilization project at Chickahominy Waterfront Park and James City County Marina, which will help to improve waterway quality and counter riverbank erosion.

While Ohio analyzes state's water for harmful chemicals, Cleveland already knows what's in its supply – nothing

<https://www.cleveland.com/cityhall/2019/10/while-ohio-analyzes-states-water-for-harmful-chemicals-cleveland-already-knows-whats-in-its-supply-nothing.html>

By [Robert Higgs, cleveland.com](#)

Gov. Mike DeWine has ordered statewide testing for certain harmful chemicals in drinking water supplies, but Cleveland already knows what the state will find in the city's water.

Nothing.

Cleveland has been testing for the chemicals since 2014.

The chemicals, perfluoroalkyl and polyfluoroalkyl substances collectively known as PFAS, are commonly found in products ranging from carpeting and clothing to non-stick cookware and pizza boxes. They are known for their ability to repel grease and water. They also can be found in industrial sites or airports where firefighting foam is used.

Dubbed “forever chemicals,” they don't break down easily in the environment or human bodies. Studies have found a buildup of the chemicals may lead to health issues including high cholesterol, cancer and decreased fertility.

Cleveland draws its drinking water from Lake Erie.

In nearly 180 samples of water taken over five years at all four of the Cleveland Water Department's treatment plants, the presence of a PFAS substance has been found just twice – and in such a small amount as to be meaningless.

The EPA's health advisory level for PFAS chemicals is 70 parts per trillion – about the equivalent of one drop of water in 70 Olympic-sized swimming pools, said Scott Moegling, Cleveland's water-quality manager.

One sample from 2016 taken at the Garrett Morgan Water Treatment Plant registered a presence of one PFAS chemical at 2.7 parts per trillion. In February of this year, a sample at the Baldwin Water Treatment Plant detected a presence of 1.8 parts per trillion.

The detected amounts are so small that they could be attributed to a chance presence of the chemical or a sampling error, Moegling said. What the tests show is that Cleveland doesn't have a problem with PFAS accumulation in its supply.

“That gives us a good feeling,” Moegling said.

In a statement last week, DeWine announced the Ohio Environmental Protection Agency and the Ohio Department of Health have until Dec. 1 to test public and private water systems near firefighting training sites, manufacturing facilities and other sources of PFAS. State officials also are to work out a response plan in case high levels of PFAS are found.

“This is important for both the protection of our natural resources and for public health, which is why we must more fully evaluate the prevalence of PFAS in our water,” DeWine said in his statement.

The nature of Cleveland's water operation, one of the largest in the country, likely reduces the chances the chemical group will ever appear in significant quantities.

Cleveland's four water intakes are farther from shore and in deeper water than other Ohio water suppliers – far enough to be removed from any contaminants that could enter the lake from rivers or runoff.

And since water constantly flows through the lake, it flushes itself out, Moegling said.

Systems that rely on ground water are more likely to have problems with PFAS accumulation, Moegling said, because those systems rely on aquifers where the water doesn't cycle through in the same way as Cleveland's lake supply.

Of about 5,000 public water systems in Ohio, all but about 500 rely on ground water sources, Moegling said.

Cleveland will continue to check its supply, though, so corrective action could be taken quickly if chemicals are detected, said Alex Margevicius, Cleveland's water commissioner.

"Part of why we're doing this is just to watch and be vigilant," Margevicius said.

[BACK TO TOP](#)

The Register-Herald

Preble County residents protest for climate change

<https://www.registerherald.com/news/33566/preble-county-residents-protest-for-climate-change>

A group of concerned citizens stood outside the Preble County Courthouse with hand-painted signs and a bullhorn on Friday afternoon, Sept. 20, as part of a worldwide call to action on climate change.

Millions of people globally took part in similar protests. According to USA Today, thousands of citizens demonstrated in cities such as San Francisco, Denver, Chicago, Boston, and Washington, D.C. Strikes and marches also took place in Berlin, London, and Melbourne, Australia.

The events were organized in part to draw attention to the United Nations Climate Action Summit, which kicked off on Monday. The summit, according to the official UN website, is intended to bring together world leaders from around the globe "with concrete, realistic plans to reduce greenhouse gas emissions by 45 percent over the next decade, and to net zero emissions by 2050."

Friday's Preble County demonstration was organized by Katelyn Buckler, who runs a locally-based Facebook group focusing on climate change awareness called "Always Greener." Also present was Carla Blackmar, of Lakengren.

"So many farmers in this area are getting clobbered by climate change," Blackmar said. "The weather is becoming more and more erratic, which makes it harder to grow things. That's hard on a growing economy like ours."

According to the Environmental Protection Agency (EPA) website, higher carbon dioxide levels in the atmosphere due to climate change can reduce the quality of alfalfa and soybean crops and hamper the ability of pastures to support grazing livestock, while increased temperatures and heavy precipitation can harm crops and reduce yields.

"We're all neighbors in this agricultural region, and we're facing these struggles together," Blackmar said.

Buckler also spoke about the importance of raising awareness about climate change.

"There's really no reason our world should be wasted and thrown away because some people want more money," Buckler said. "The world is a gift to all of us, and it should be treated that way."

Chantel Raghu, a veterinarian and city council member from Oxford, stressed the local effects of climate change.

"The ground's too wet and they can't raise their crops," Raghu said of the region's farmers. "It's something that has a real local impact."

There are many steps local government leaders can take to support the environment, Raghu said, including instituting composting and curbside recycling programs, taking a city-wide emissions inventory, or signing the Mayors' Covenant for Climate Change, as Oxford community leaders have done.

"That's something the city of Eaton could do as well," Raghu said. "The city limits of Oxford are so small, and we are all so interconnected."

[BACK TO TOP](#)

EPA stops work on a deal meant to help farmers battle big oil industries

<https://www.foxbusiness.com/money/epa-stops-work-on-a-deal-meant-to-help-farmers-battle-big-oil-industries>

By [Shawn M. Carter](#)

The Environmental Protection Agency has stopped working on an update to its biofuels policy that would help farmers who are angry about [biofuel blending exemptions](#) given to oil refineries.

Under current policy, [more than 30 oil refineries are exempt](#) from their U.S. Renewable Fuel Standard mandate to blend corn-based ethanol with other biofuels.

Agriculture advocates argue the exemptions hurt farmers who produce corn-based ethanol and are who are already taking losses as a result of the ongoing U.S.-China trade war. Oil industry experts, on the other hand, say the exemptions are intended to save refining jobs.

The EPA is waiting for further direction from the White House, according to Reuters.

Demands from oil industry representatives for concessions to increase biofuel use have held up the updates, but the [impeachment inquiry](#) against President Trump has also diverted the administration's attention away from the deal.

An agency spokesperson said the EPA will “continue to consult with our federal partners on the best path forward to ensure stability in the Renewable Fuel Standard.”

The agricultural industry wants the White House to force big refineries to make up for the exempted gallons through a “reallocation” process, but the plan has faced backlash.

“Plants are closing now. Farmers are going bankrupt now. The biofuel industry made it clear that restoring the exempted gallons by 2020 is the only way to stop the bleeding,” a biofuel source told Reuters. “Anything short of that is going to face united opposition, which means the president won’t want to show his face in Iowa.”

Some fear the policy reform won’t be completed before the end of the year

[BACK TO TOP](#)

Trump's EPA may use partial refinery waivers under biofuel deal: sources

<https://www.reuters.com/article/us-usa-biofuels/epa-to-grant-partial-small-refinery-exemptions-going-forward-in-biofuels-deal-sources-idUSKBN1WH207>

By [Stephanie Kelly](#), [Jarrett Renshaw](#), [Humeysra Pamuk](#)

The U.S. Environmental Protection Agency may use partial small refinery exemptions under the Trump administration’s biofuels deal to help farmers and boost ethanol consumption, two sources familiar with the matter said on Wednesday.

The move would be aimed at reducing the impact of the waivers, which free refineries from their obligations under the Renewable Fuel Standard - a law requiring ethanol and other biofuels be blended into the nation’s gasoline.

In August, the Trump administration granted 31 waivers, angering farmers and ethanol producers that say the waivers cut demand and hurt them financially.

Since President Donald Trump took office, the EPA has vastly expanded its use of such waivers, giving them to refineries owned by huge, profitable companies like Exxon Mobil Corp and Chevron Corp. It has also routinely provided full exemptions to refineries even when the Department of Energy has recommended only partial relief for those facilities.

The proposal to use partial waivers is part of a larger deal that Trump promised related to ethanol, hashed out after a series of meetings with biofuel officials, farm- and oil-state senators and refining executives in September, the sources said.

Other components of the deal, most of which have already been reported by Reuters, include boosting blending quotas for the coming years based on a three-year rolling average of total biofuels gallons exempted from the RFS mandate. The plan would also aim to increase consumer access to E15 gasoline, a gasoline blend with 15 percent ethanol, as opposed to the more common E10 blends.

The pending deal is unlikely to include any price caps for the biofuel blending credits that refiners must earn or purchase to comply with the RFS, a measure the oil industry had been seeking as a concession in the biofuel deal, the sources said.

The administration aims to announce the final biofuels deal next week, sources previously told Reuters.

While the RFS is intended to help farmers and reduce U.S. imports of petroleum, the EPA can exempt small refineries from the regulation if they can prove that compliance would cause them disproportionate economic hardship.

The Department of Energy is charged with assessing the applications and providing the EPA with recommendations before the EPA makes a final decision.

Trump's EPA has disregarded DOE advice on waivers in the past, Reuters has reported, marking a break from the Obama administration's EPA, which had often either adopted energy department recommendations or, when it did not, ruled against exempting oil refiners.

The agriculture industry has said the waivers cut ethanol demand, hurting growers already suffering from lost foreign markets due to the U.S. trade war with China. The oil industry, however, counters that the exemptions protect refining jobs and have no impact on the amount of ethanol used.

[BACK TO TOP](#)

#

Organizer: Covington, Jeryl[Covington.Jeryl@epa.gov]
From: Covington, Jeryl[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5744ff31964349539994e9eb4c3f90fc-Covington,]
Attendees: Covington, Jeryl; Dorka, Lilian; Khan, Zahra; Johnson, Johahna; Hicks, Basil; mcalister; Moncrieffe, Marcia; Hoang, Anhthu
Location: Microsoft Teams Meeting
Importance: Normal
Subject: EPA Complaint No. 27R-16-R6: Meeting with ADEQ
Start Time: Wed 10/27/2021 2:00:00 PM (UTC)
End Time: Wed 10/27/2021 3:00:00 PM (UTC)
Required Attendees: Covington, Jeryl; Dorka, Lilian; Khan, Zahra; Johnson, Johahna; Hicks, Basil; mcalister
Optional Attendees: Moncrieffe, Marcia; Hoang, Anhthu
[2021.01.08 Final ADEQ Recip Resolution Ltr and IRA 27R-16-R6.pdf](#)
[Informal Resolution Agreement Report.pdf](#)

-----Original Appointment-----
From: Covington, Jeryl <Covington.Jeryl@epa.gov>
Sent: Tuesday, October 5, 2021 5:39 PM
To: Covington, Jeryl; Dorka, Lilian; Khan, Zahra; Johnson, Johahna; Hicks, Basil; mcalister
Cc: Moncrieffe, Marcia
Subject: EPA Complaint No. 27R-16-R6: Meeting with ADEQ
When: Wednesday, October 27, 2021 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

Rescheduled meeting with ADEQ to discuss the IRA Report and obtain an update on the IRA commitments (Section III. D through M).

Microsoft Teams meeting

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[+1 202-991-0477,,975215006#](#) United States, Washington DC
Phone Conference ID: 975 215 006#
[Find a local number](#) | [Reset PIN](#)

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To: Tripathi, Arati[Tripathi.Arati@epa.gov]
From: Khan, Zahra[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C20DB37EC2C49948C2B6DBA2856EF30-KHAN, ZAHRA]
Sent: Wed 11/24/2021 7:14:01 PM (UTC)
Subject: FW: Update: ADEQ 27R-16-R6
Exhibit B-1 Rule 2 - Supplemental Response to EPA Comment-20211119 (2).pdf
Revised Definition of "Waters of the United States" NPRM Pre-Publication Version-Waste Treatment Exclusion.pdf

Sorry, Arati, I left you off of this by accident. See below for the background.

From: Khan, Zahra
Sent: Wednesday, November 24, 2021 2:10 PM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Hoang, Anhthu <Hoang.Anhthu@epa.gov>; Maguire, Charles <maguire.charles@epa.gov>
Subject: Update: ADEQ 27R-16-R6

Good afternoon,

I just spoke with Basil Hicks and he wanted to convey some updated decisions by ADEQ around the Rule 2 discussion.

See the "Exhibit B" document for more information, but Basil conveyed that due to EPA's objections and concerns with the footnotes regarding Mossy Lake and Coffee Creek in the Rule 2 documents, they have been removed and they will not be addressing it during this triennial review.

Instead they want to have a larger stakeholder meeting with Crossett representatives, EPA, and other stakeholders starting March 2022 to discuss Mossy Lake/Coffee Creek for the 2023 triennial review.

He also referenced the WOTUS proposed rule that was publicized on November 18, 2021, particularly the Waste Treatment exclusion. That is also attached here.

Finally, because of other stakeholders dependent on the commission to move forward with this issue, Basil is hoping to finalize the review during the next Commission meeting on December 3.

I will set up a meeting for us all to discuss next week. Have a wonderful Thanksgiving!
Zahra

From: Hicks, Basil <hicks@adeq.state.ar.us>
Sent: Wednesday, November 24, 2021 1:40 PM
To: Khan, Zahra <Khan.Zahra@epa.gov>
Subject: RE: documents

Per our conversation, I am sending you the supplemental response and the section of the proposed WOTUS Rule I mentioned.

Thank you,

Basil V. Hicks III | Attorney Supervisor
Energy and Environment | Office of Chief Counsel
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0884 | e: hicks@adeq.state.ar.us



ARKANSAS
ENERGY & ENVIRONMENT

EXHIBIT B – 1:

SUPPLEMENT TO
RESPONSIVE SUMMARY

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
RULE 2, RULE ESTABLISHING) DOCKET NO. 20-004-R
WATER QUALITY STANDARDS FOR SURFACE)
WATERS OF THE STATE OF ARKANSAS)

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY'S
SUPPLEMENT TO RESPONSIVE SUMMARY

Supplemental Response to EPA's Comments on Coffee Creek and Mossy Lake:

Pursuant to the federal Clean Water Act and in compliance with applicable federal regulations, DEQ regularly conducts a "triennial review" of Rule 2 and statewide water quality standards to determine whether modifications are appropriate and propose such changes to the APC&EC for adoption. The current rulemaking before the Commission is a result of the triennial review cycle begun in 2017 and the petition to initiate rulemaking filed in June 2020.

Before DEQ filed its petition to finalize the current rulemaking in August 2021, it provided EPA Region 6's Water Division with a copy of DEQ's response to comments filed by EPA Region 6 related to Coffee Creek and Mossy Lake. In response, EPA Region 6 Water Division Director Charles Maguire sent a letter dated August 23, 2021 to APC&EC Chair Richard Roper with concerns regarding the treatment of Coffee Creek and Mossy Lake in the proposed rulemaking.

On October 13, 2021, DEQ staff met with representatives from EPA Region 6 and EPA's External Civil Rights Compliance Office (ECRCO) and presented the reasoning and factual basis for DEQ's response to EPA's comment on Coffee Creek and Mossy Lake. ECRCO's participation was related to the Informal Resolution Agreement between DEQ and ECRCO that resolved EPA Complaint No. 27R-16-R6 9(IRA), executed in January of 2021, where DEQ committed (A) to provide its response to EPA's comments on Mossy Lake and Coffee Creek prior to filling the petition to adopt Rule 2 and (B) to include a representative from the Crossett Community and EPA Region 6 in the triennial review that is to be completed in 2023. Both DEQ and ECRCO agree that providing the Crossett Community with the opportunity for meaningful involvement in the 2023 triennial review comports with the letter and spirit of the IRA in addition to the Clean Water Act, Title VI, and Arkansas law.

On October 19, 2021, DEQ met with EPA Region 6 in Dallas to discuss EPA Region 6's concerns about DEQ response to EPA's comment on Coffee Creek and Mossy Lake. At that meeting, DEQ reiterated its reasoning and factual basis and explained that the changes that EPA Regions 6 requested in its letter to the Commission risk violating APC&EC Rules and potentially violating the due process rights of stakeholders including the Crossett community, the City of Crossett, and Georgia Pacific. The public comment period for the current rulemaking on Rule 2 had ended on September 8, 2020. At the time the IRA was executed in January 2021, the next step in the process was final approval of the pending rulemaking by the Commission. DEQ also explained that its response to EPA's comment on Coffee Creek and Mossy Lake was an attempt

to satisfy most of EPA's concerns within the confines of the almost completed rulemaking process. DEQ expressed its concern that a premature decision predicated on EPA Region 6's current request could also conflict with both the letter and the spirit of DEQ's agreement with ECRCO. DEQ reiterated this concern to ECRCO during an October 27, 2021 meeting on a related topic.

DEQ has a responsibility to stakeholders concerned with other issues in the current rulemaking that have no involvement with the issues related to Coffee Creek and Mossy Lake. Those stakeholders are waiting on DEQ to complete the rulemaking for Rule 2. Issues related to Coffee Creek and Mossy Lake should not prevent the changes important to the other stakeholders from moving forward.

At the October 19, 2021 meeting, EPA Region 6 expressed its concerns about DEQ's revisions to Rule 2 in response to EPA's comments on Coffee Creek and Mossy Lake. After considering EPA's concerns, DEQ now agrees with EPA that the proposed changes related to Mossy Lake and Coffee Creek should not move forward at this time.

DEQ is committed to ensuring full compliance with existing and applicable administrative processes and procedures to allow full and meaningful engagement and informed participation with all stakeholders including EPA, members of the Crossett community, the City of Crossett, Georgia Pacific, and DEQ before making any final decision on the Coffee Creek and Mossy Lake issues. These stakeholders have a vested interest in resolving the Mossy Lake and Coffee Creek issues, and DEQ believes that meaningful involvement for all of these parties must be provided in the process of addressing EPA's concerns via the upcoming triennial review process. Stakeholder meetings are set to begin in March of 2022. Addressing Mossy Lake and Coffee Creek directly through this process comports with both the letter and the spirit of the IRA signed by DEQ and ECRCO.

In response to EPA Region 6's request, DEQ has removed those changes to Rule 2. Specifically, DEQ removed the proposed footnote describing Mossy Lake and the proposed footnote that describes Coffee Creek. DEQ reiterates its commitment to ensuring full compliance with existing and applicable administrative processes and procedures to allow full and meaningful engagement and informed participation with all stakeholders.

DEQ is obliged to move forward with the current rulemaking's changes to Rule 2 that are not related to Coffee Creek and Mossy Lake to meet its commitment to the other stakeholders engaged in this rulemaking process. This discrete issue should not impair the rights of other stakeholders. If it did impair their rights, those stakeholders would have cause to question both DEQ's and EPA's commitment to the meaningful engagement required by Arkansas law and the Clean Water Act.

DEQ, by this supplemental response, commits to hold a public meeting with the Crossett community to discuss Mossy Lake and Coffee Creek and changes to APC&EC Rule 2 for the triennial review to be completed in 2023. This meeting is set to take place in conjunction with the other stakeholder meetings that will begin in March 2022 as part of the triennial review process to be completed in 2023.

DEQ acknowledges the necessity and importance of including the City of Crossett and Georgia Pacific in this conversation as the City's municipal wastewater is currently treated, in part, by Georgia Pacific's wastewater treatment system. DEQ believes that changes to Rule 2 that alter the current status of Coffee Creek and Mossy Lake could result in significant changes for the City of Crossett and for Georgia Pacific. Failing to include representatives of the Crossett community, the City of Crossett, and Georgia Pacific along with EPA and DEQ in these discussions prevents the meaningful involvement required by both federal and Arkansas law.

Respectfully Submitted,

By: 

Basil V. Hicks III
Attorney for Division of
Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72218
(501) 682-0884

Organizer: Covington, Jeryl[Covington.Jeryl@epa.gov]
From: Covington, Jeryl[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5744FF31964349539994E9EB4C3F90FC-COVINGTON,]
Attendees: Khan, Zahra; Johnson, Johahna; Rhines, Dale; Dorka, Lilian; Frey, Sarah; Barnett, Cheryl; Vaughn, Gloria; Blanco, Arturo; Burrell, Monica; Brown, Jamesr; Nelson, Russell; Ryland, Renea; Moncrieffe, Marcia; mcalister; Hicks, Basil
Location: Microsoft Teams Meeting
Importance: Normal
Subject: EPA Complaint No. 27R-16-R6: Discussion of Draft Informal Resolution Agreement
Start Time: Thur 12/10/2020 5:00:00 PM (UTC)
End Time: Thur 12/10/2020 6:00:00 PM (UTC)
Required Attendees: Khan, Zahra; Johnson, Johahna; Rhines, Dale; Dorka, Lilian; Frey, Sarah; Barnett, Cheryl; Vaughn, Gloria; Blanco, Arturo; Burrell, Monica; Brown, Jamesr; Nelson, Russell; Ryland, Renea; Moncrieffe, Marcia; mcalister; Hicks, Basil

2020.08.24 REVISED DRAFT IRA Complaint No 27R-16-R6-DEQ edits and comments-20201119.docx

Review of draft informal resolution agreement.

Microsoft Teams meeting

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Organizer: Dorka, Lilian[Dorka.Lilian@epa.gov]
From: Dorka, Lilian[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AF796221E00A4A338CEA3C72ADBD0D57-DORKA, LILL]
Attendees: Dorka, Lilian; Temple, Kurt; Rhodes, Julia; Hicks, Basil; Shane Khoury; Linck, Julie; Golden, April; McAlister, Michael; Rhines, Dale; Covington, Jeryl; Khan, Zahra; Johnson, Johahna; Moncrieffe, Marcia; Barnett, Cheryl; Gray, David; Blanco, Arturo; Ryland, Renea; Burrell, Monica; Osbourne, Margaret; Vaughn, Gloria; Hayes, Mark; Frey, Sarah; Smith, Suzanne; Welton, Patricia
Location: Microsoft Teams Meeting
Importance: Normal
Subject: FOLLOW UP Conversation With ADEQ (ADEE-DEQ)
Start Time: Wed 7/1/2020 8:00:00 PM (UTC)
End Time: Wed 7/1/2020 9:00:00 PM (UTC)
Required Attendees: Hicks, Basil; Shane Khoury; Linck, Julie; Golden, April; mcalister; Rhines, Dale; Covington, Jeryl; Khan, Zahra; Johnson, Johahna; Moncrieffe, Marcia; Barnett, Cheryl
Optional Attendees: Temple, Kurt; Rhodes, Julia; Gray, David; Blanco, Arturo; Ryland, Renea; Burrell, Monica; Osbourne, Margaret; Vaughn, Gloria; Hayes, Mark; Frey, Sarah; Smith, Suzanne; Welton, Patricia

DRAFT Informal Resolution Agreement Complaint No 27R-16-R6_DEQ-edits 20200629.docx

Sorry again everyone. Thursday will not work for folks here who need to be on the call. 😞 So, I am trying for next Wednesday.

Sorry all – need to reschedule. We will try for next Thursday, although, we need to change the time a bit. Thanks everyone!

Hello everyone, I’m rescheduling per a request from colleagues at DEQ. Please let me know if this new time/date presents a problem for anyone. Thanks! Lilian

As we agreed today, sending this follow up meeting request. Thank you everyone for a very productive call today! Lilian

Conversation to discuss the status of our informal resolution agreement, the CD, and moving forward.

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+1 202-991-0477 United States, Washington DC (Toll)

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Organizer: Khan, Zahra[Khan.Zahra@epa.gov]
From: Khan, Zahra[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C20DB37EC2C49948C2B6DBA2856EF30-KHAN, ZAHRA]
Location: Microsoft Teams Meeting
Importance: Normal
Subject: EPA Complaint No. 27R-16-R6 Follow up Discussion with Region on Draft IRA
Start Time: Fri 8/21/2020 6:00:00 PM (UTC)
End Time: Fri 8/21/2020 7:00:00 PM (UTC)
Required Attendees: Covington, Jeryl; Dorka, Lilian; Rhines, Dale; Johnson, Johanna; Frey, Sarah; Barnett, Cheryl; Vaughn, Gloria; Blanco, Arturo; Burrell, Monica; Brown, Jamesr; Ryland, Renea; Moncrieffe, Marcia; Nelson, Russell

[2020.08.20 REVISED DRAFT IRA Complaint No 27R-16-R6.docx](#)

I have confirmed attendance and we will move forward with this meeting. Please see latest updated draft attached.

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To: Covington, Jeryl[Covington.Jeryl@epa.gov]
From: Khan, Zahra[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8C20DB37EC2C49948C2B6DBA2856EF30-KHAN, ZAHRA]
Sent: Mon 12/18/2017 1:49:35 PM (UTC)
Subject: FW: Tulane Environmental Law Clinic response to your letter re Georgia Pacific Crossett 12-8-17 TELC response to GP ltr.pdf

From: Moncrieffe, Marcia
Sent: Monday, December 18, 2017 7:32 AM
To: Khan, Zahra <Khan.Zahra@epa.gov>
Subject: FW: Tulane Environmental Law Clinic response to your letter re Georgia Pacific Crossett

Good Morning Zahra,

I cannot be sure you have a copy of the attached letter and so I am forwarding to you.

Kind regards,
Marcia

From: Jordan, Lisa W [mailto:lwjordan@tulane.edu]
Sent: Friday, December 08, 2017 5:17 PM
To: brooks.smith@troutmansanders.com
Cc: Tejada, Matthew <Tejada.Matthew@epa.gov>; Burrell, Monica <Burrell.Monica@epa.gov>; Coleman, Sam <Coleman.Sam@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Gray, David <gray.david@epa.gov>; Honker, William <honker.william@epa.gov>; Vaughn, Gloria <Vaughn.Gloria@epa.gov>; Rosborough, Evelyn <rosborough.evelyn@epa.gov>; Seager, Cheryl <Seager.Cheryl@epa.gov>; Khan, Zahra <Khan.Zahra@epa.gov>; blanz@adeq.state.ar.us; chapman@adeq.state.ar.us; keogh@adeq.state.ar.us; mcalistier@adeq.state.ar.us; osbornec@adeq.state.ar.us; Van Dalen, Corinne J <cvandale@tulane.edu>; Calderon, Elizabeth L <ecaldero@tulane.edu>
Subject: Tulane Environmental Law Clinic response to your letter re Georgia Pacific Crossett

Mr. Smith:
Please receive the attached letter responding to your July 11, 2017, letter regarding the Tulane Environmental Law Clinic's filings on behalf of its clients on matters regarding the Georgia Pacific Crossett facility.

Lisa Jordan
Director, Tulane Environmental Law Clinic
Professor of the Practice
6329 Freret Street
New Orleans, LA 70118
Direct: (504) 314-2481
Office: (504) 865-5789
Fax: (504) 862-8721
Email: lwjordan@tulane.edu

To: Martinez, Maria[Martinez.Maria@epa.gov]
From: Maguire, Charles[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Tue 1/25/2022 7:42:55 PM (UTC)
Subject: RE: Update - RE: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Ok send the electronic so I can give to Cecil and I-Jung

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Tuesday, January 25, 2022 1:41 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>
Subject: Update - RE: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Lilian has responded and they don't have any input. She expressed appreciation for sharing the working draft with them. So we are good to proceed with RA Office review.

From: Martinez, Maria
Sent: Monday, January 24, 2022 4:28 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>
Subject: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Charles,

The attached Word document contains the working draft of the response letter to the APCE&EC regarding the Rule 2 that will be discussed at the January 28, 2022 Commission Meeting. Also included are the two enclosures that are referenced in our letter. The letter was drafted by the Branch staff and Renea. Do you want to send it directly to Lilian Dorka for input? Renea recommends cc'ing Marcia Moncrieffe in the email to Lilian.

We stand by for next steps.

Maria

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Monday, January 24, 2022 9:15 AM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Cc: Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Agree...

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Monday, January 24, 2022 9:14 AM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

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Zahra,

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Please let me know if you have any questions or if you would like to talk.

Thank you,

Basil V. Hicks III | Attorney Supervisor

Energy and Environment | Office of Chief Counsel

5301 Northshore Drive | North Little Rock, AR 72118

t: 501.682.0884 | e: hicks@adeq.state.ar.us



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Cc: Hicks, Basil; York, Alan; Alberg, Peter

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ED_006641_00001058-00002

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Michael McAlister | Deputy Chief Counsel

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Sent: Wed 1/26/2022 10:42:16 PM (UTC)
Subject: RE: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

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U.S. EPA Region 6
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Cell: 215.266.2960
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Sent: Thur 8/26/2021 7:06:34 PM (UTC)
Subject: RE: Agenda] August 27th APC&E Commission Meeting Cancelled

Ok.

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Thursday, August 26, 2021 2:06 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Subject: RE: Agenda] August 27th APC&E Commission Meeting Cancelled

Hmm...I am standing by if you need anything.

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Thursday, August 26, 2021 2:06 PM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Subject: RE: Agenda] August 27th APC&E Commission Meeting Cancelled

Alan York is calling me at 2:15... not sure what he plans to say.

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Thursday, August 26, 2021 2:01 PM
To: Maguire, Charles <maguire.charles@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>
Subject: .FW: Agenda] August 27th APC&E Commission Meeting Cancelled
Importance: High

Some good news below from Russell. We will be preparing a briefing sheet to layout options for your consideration, in preparation for any subsequent discussion between you and ADEQ.

From: Nelson, Russell <nelson.russell@epa.gov>
Sent: Thursday, August 26, 2021 1:46 PM
To: Martinez, Maria <Martinez.Maria@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>
Subject: FW: Agenda] August 27th APC&E Commission Meeting Cancelled
Importance: High

All,

I have received a subsequent email from Charles Moulton, the Administrative Law Judge for the APC&EC saying that Chairman Roper is in receipt of our August 23, 2021, letter regarding EPA Region 6’s “objection to the adoption of proposed amendments to Commission Rule 2.” Mr. Moulton also noted that the Chair has removed consideration of the proposed amendments to Rule 2 from the Commission’s August 27, 2021, agenda. I asked if the proposed amendments to Rule 2 would be considered at the Commission’s September 24th hearing.

He responded with the following:

“At present the Rule 2 ball is in DEQ’s court. My understanding is that DEQ plans to caucus with Region 6 soon to determine whether a resolution can be reached. Whether or not there is an effort to place Rule 2 on the September agenda is, ultimately, up to DEQ because they are the entity that requested the Commission to initiate the rulemaking. The Commission won’t unilaterally place the matter on an agenda without a request to do so.”

Given this, we should be prepared to respond with EPA/Region 6 expectations to what may be contact from Alan York to Charles or David. I would recommend that we continue with what we said in the August 23rd letter, that water quality standards be applied to the entirety of Coffee Creek from its headwaters through Mossy Lake and again to Coffee Creek to its confluence with the Quachita River. Rather than lay it out here, is there interest in my developing a briefing sheet of some sort laying out options from the WQS program perspective that others can weigh in on so we can respond to Charles quickly?

Russell

Russell Nelson
Regional Water Quality Standards Coordinator
Water Quality Protection (WDPQ)
U.S. EPA, Region 6
1201 Elm St., Suite 500
Dallas, TX 75270

(214) 665-6646
nelson.russell@epa.gov

"Follow the law. Follow the science. And be transparent." B. Ruckelshaus

From: Nelson, Russell
Sent: Wednesday, August 25, 2021 12:56 PM
To: Wooster, Richard <Wooster.Richard@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>
Subject: Agenda] August 27th APC&E Commission Meeting Cancelled
Importance: High

All;

See the attached email.

I assume Charles will need to be informed that his letter has had some effect, but he may have already heard that from Alan York. I will leave it to the three of you to determine how this is relayed up the COC and if it should be relayed to Marcia as well as ECRCO.

Russell

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Dallas, TX 75270

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From: E&E Email List <emaillists@adeq.state.ar.us>
Sent: Wednesday, August 25, 2021 12:15 PM
To: CommissionAgenda_emailist <CommissionAgenda_emailist@adeq.state.ar.us>
Subject: [PCE Commission Agenda] August 27th APC&E Commission Meeting Cancelled

The Chair has cancelled the Friday, August 27, 2021 Pollution Control & Ecology Commission meeting. Our next Commission meeting is scheduled for Friday, September 24, 2021.

Patricia Goff
Pollution Control & Ecology Commission
3800 Richards Road
North Little Rock, AR 72117
(501) 682-7890

This message was sent from the Arkansas Department of Energy and Environment's automated email list system.

If you do not want to receive these emails in the future, please [unsubscribe](#).

Please do not reply directly to this email. This email was sent from a notification-only address that cannot accept incoming email.

If you have questions or need assistance, please use [our online form](#).

Was this email forwarded to you? [Subscribe](#) to receive updates from this email list.

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Sent: Wed 1/26/2022 10:44:39 PM (UTC)
Subject: RE: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Thanks
Let's try to make it happen so I can send tonight....

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Great. I will send to Natalie to finalize.

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Energy and Environment | **Office of Chief Counsel**
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0918 | e: mcalister@adeq.state.ar.us

Cc: Moncrieffe, Marcia[Moncrieffe.Marcia@epa.gov]; Gray, David[gray.david@epa.gov]; McGuire, James[McGuire.James@epa.gov]; Welton, Patricia[Welton.Patricia@epa.gov]; Murdock, Russell[Murdock.Russell@epa.gov]; Ryland, Renea[Ryland.Renea@epa.gov]; Hill, Troy[Hill.Troy@epa.gov]; Martinez, Maria[Martinez.Maria@epa.gov]; Wooster, Richard[Wooster.Richard@epa.gov]
To: Nelson, Russell[nelson.russell@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Thur 10/7/2021 12:57:07 PM (UTC)
Subject: Re: EPA Complaint No. 27R-15-R6: Meeting with ADEQ

Ok
Thanks
I believe we will have a meeting with ADEQ on this topic soon.

Sent from my iPhone

On Oct 7, 2021, at 7:53 AM, Nelson, Russell <nelson.russell@epa.gov> wrote:

Charles,

I learned from Charles Moulton, Administrative Law Judge for the Arkansas Pollution Control & Ecology Commission that ADEQ will not bring their proposed revisions to Regulation 2 - their water quality standards to the Commission for hearing on October 22, 2021.

Russell

Russell Nelson
Regional Water Quality Standards Coordinator
Water Quality Protection (WDPQ)
U.S. EPA, Region 6
1201 Elm St., Suite 500
Dallas, TX 75270

Cell (972) 310-1539
(214) 665-6646
nelson.russell@epa.gov

"Follow the law. Follow the science. And be transparent." B. Ruckelshaus

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Wednesday, October 6, 2021 6:31 PM
To: Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>
Cc: Gray, David <gray.david@epa.gov>; McGuire, James <McGuire.James@epa.gov>; Welton, Patricia <Welton.Patricia@epa.gov>; Murdock, Russell <Murdock.Russell@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>
Subject: Re: EPA Complaint No. 27R-15-R6: Meeting with ADEQ

I think there is an ADEQ meeting planned for 10/20. Is that correct. Is there still a thought that HQ would attend the Commission meeting now on 10/22?

Sent from my iPhone

On Oct 6, 2021, at 6:13 PM, Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov> wrote:

ED_006641_00001065-00001

Good evening, David,

Please see the email below, which shares a communication between Lilian and Michael (ADEQ) regarding the referenced Title VI Informal Resolution Agreement. I ask as well that you please note the last paragraph of the email and Lilian's questions, which I have highlighted for ease of reference.

With this email, I ask also for James and Charles to please bring this information to David's attention at a time you deem best and during a call or meeting you have that is upcoming with David.

Thanks in advance.

I remain available,
Marcia

From: Dorka, Lilian <Dorka.Lilian@epa.gov>

Sent: Wednesday, October 06, 2021 6:00 PM

To: Covington, Jeryl <Covington.Jeryl@epa.gov>; Khan, Zahra <Khan.Zahra@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; Maguire, Charles <maguire.charles@epa.gov>

Cc: McGuire, James <McGuire.James@epa.gov>

Subject: RE: EPA Complaint No. 27R-15-R6: Meeting with ADEQ

Hi all,

I got a call from Michael McAlister, the attorney from DEQ with whom we have been working on this Title VI case. He wanted to be responsive to any of ECRCO's Title VI concerns in fulfilling the terms of our Informal Resolution Agreement. I communicated to him that the most significant issues we wanted to discuss was whether DEQ's recent action re the reevaluation of appropriate designated uses for Coffee and Mossy was consistent with the spirit and intent of our Title VI commitment (III A. see below), in light of the Letter issued by Region 6 on August 23, 2021. I explained that it would not be possible for us to say that an action that violates the Clean Water Act is otherwise ok from a Title VI perspective, especially since the commitment specifically says that the DEQ Action would be consistent w the CWA, etc .

Michael totally understood my Title VI perspective and position but says DEQ believes there is a fundamental disconnect between DEQ and the Region re the requirements of the CWA with respect to Coffee and Mossy bec., there is a fundamental disconnect re the "facts" with respect to the bodies of water in question. So, he said they are trying to schedule a conversation between DEQ and Region 6 at the "highest levels" to discuss that "disconnect." And in fact, he anticipates there may be a meeting in person, in Dallas, early to mid-November. (He also mentioned that they have asked the Commission not to put this issue on the hearing agenda in October and instead to wait for the next meeting which would be early December.)

I shared with him that ECRCO is not comfortable having the "Title VI" conversation, i.e., about complying with the Commitment, until after the CWA conversation between DEQ and R6, and that I would like to at least attend that conversation if possible so that I can feel comfortable that ECRCO understands EPA's position – even after hearing from DEQ. As such, I do not think we are ready to talk about this issue (ie, Section III A.) on October 20th.

I let him know that I would speak to the case team about whether we should go ahead w? the October 20 meeting to discuss other DEQ submissions/ actions per our agreement, most of which I think are procedural? He also let me know that Shay Randolph just had a baby on Monday and is now on maternity leave but that he and Basil would be happy to address any other issues.

I wanted to send this out so that we are all on the same page here and I included James as I know Marcia was keeping him up to date as to the "Title VI issues." Could R6 please verify that in fact a meeting is in the works between R 6 and DEQ to discuss EPA's position (i.e., the August 23 letter)? And, could you please keep me in the loop on plans to schedule that meeting? Thanks so much for all of your help and please let me know if you have any questions and/or we need to discuss. Lilian

III A. DEQ will respond to EPA's comments on Mossy Lake and Coffee Creek prior to its final submission of Rule 2 to the Arkansas Pollution Control and Ecology Commission for the current water quality standards triennial revisions. DEQ's response will address the reevaluation of appropriate designated uses specific to Coffee Creek and Mossy Lake consistent with the CWA and federal regulations and in compliance with Arkansas law.

Lilian Sotolongo Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel
U.S. Environmental Protection Agency
202-564-9649 - Office
202-695-9888 - Cell
Pronouns: she/her/hers

-----Original Appointment-----

From: Covington, Jeryl <Covington.Jeryl@epa.gov>

Sent: Tuesday, October 5, 2021 5:39 PM

To: Covington, Jeryl; Dorka, Lilian; Khan, Zahra; Johnson, Johanna; Hicks, Basil; mcalister; Moncrieffe, Marcia; Nelson, Russell; Maguire, Charles

Subject: EPA Complaint No. 27R-15-R6: Meeting with ADEQ

When: Wednesday, October 20, 2021 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).

Where: Microsoft Teams Meeting

Meeting with ADEQ to discuss the IRA commitments with respect to the attached response.

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

+1 202-991-0477,,975215006# United States, Washington DC

Phone Conference ID: 975 215 006#

[Find a local number](#) | [Reset PIN](#)

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[Learn More](#) | [Meeting options](#)

To: Martinez, Maria[Martinez.Maria@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Wed 1/26/2022 11:20:22 PM (UTC)
Subject: RE: January 28, 2022 APC&E Commission Meeting - U.S. EPA's Position Regarding DEQ's Rule 2

Done!
Thanks
I've now sent Springdale to front office... didn't want it to get tangled in this one.

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Wednesday, January 26, 2022 5:14 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Subject: January 28, 2022 APC&E Commission Meeting - U.S. EPA's Position Regarding DEQ's Rule 2

To:
comment@adeq.state.ar.us

cc's:
moulton@adeq.state.ar.us
alan.york@adeq.state.ar.us
keogh@adeq.state.ar.us
Dorka.lilian@epa.gov

Dear Mr. Roper,

The U.S. Environmental Protection Agency submits the attached letter in regards to the Division of Environmental Quality's submittal to the Commission regarding Rule 2. The letter restates the EPA's concerns with Rule 2 and follows our previous August 23, 2021, letter expressing the same.

Charles

To: Chiang, I-Jung[chiang.i-jung@epa.gov]
From: Maguire, Charles[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Mon 1/24/2022 3:16:06 PM (UTC)
Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

We will try to have a draft to ya'll quickly....

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Monday, January 24, 2022 9:14 AM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Renea and the rest of us recommend sending a letter similar to what we sent in August restating our position on Rule 2 and the necessary protections for Mossy Lake and Coffee Creek. Rob and Mike Schaub are working on it. We are using the August letter as a template and updating it...including a cc to Lilian Dorka. We will make sure to circulate it to ECRCO for input. We plan to have a draft to circulate by COB, Tuesday, 1/25.

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Monday, January 24, 2022 8:26 AM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Should we send anything?

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Monday, January 24, 2022 8:23 AM
To: Maguire, Charles <maguire.charles@epa.gov>
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Got it

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Monday, January 24, 2022 8:19 AM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Cc: Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>
Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

fyi

From: Khan, Zahra <Khan.Zahra@epa.gov>
Sent: Tuesday, January 18, 2022 8:06 AM
To: Covington, Jeryl <Covington.Jeryl@epa.gov>; Maguire, Charles <maguire.charles@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>
Cc: Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Hoang, Anhthu <Hoang.Anhthu@epa.gov>
Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

FYI, I have received the following from DEQ rep, Basic Hicks.

From: Hicks, Basil <hicks@adeq.state.ar.us>
Sent: Friday, January 14, 2022 12:50 PM
To: Khan, Zahra <Khan.Zahra@epa.gov>
Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Zahra,

I am forwarding this to you to keep you up to date on this matter.

Please let me know if you have any questions or if you would like to talk.

Thank you,

Basil V. Hicks III | Attorney Supervisor
Energy and Environment | Office of Chief Counsel
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0884 | e: hicks@adeq.state.ar.us



From: McAlister, Michael
Sent: Friday, January 14, 2022 10:23 AM
To: Moulton, Charles; Goff, Patricia
Cc: Hicks, Basil; York, Alan; Alberg, Peter
Subject: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Judge Moulton and Secretary Goff,

DEQ respectfully requests that consideration of DEQ's pending motion to adopt proposed changes to Rule 2 (filed in the above-referenced docket on 08/09/2021, with Exhibits B-1, C-1, and C-2 as filed on 11/24/2021) be placed on the agenda for decision at the Commission's next upcoming meeting on January 28, 2022.

DEQ also submits a revised Proposed Minute Order (Exhibit F, attached hereto) to replace the previously submitted proposals and to be included as part of the submission for consideration and approval.

Please be advised that DEQ is providing notice of this request to Charles W. Maguire, Director – Water Division, EPA Region 6.

Please contact me if you have any questions regarding this request.

Thank you,

Michael McAlister | Deputy Chief Counsel
Energy and Environment | Office of Chief Counsel
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0918 | e: mcAlister@adeq.state.ar.us



To: Martinez, Maria[Martinez.Maria@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Thur 10/7/2021 6:28:32 PM (UTC)
Subject: Re: ADEQ proposal of Rule 2 to the Commission

Yes

Sent from my iPhone

On Oct 7, 2021, at 1:22 PM, Martinez, Maria <Martinez.Maria@epa.gov> wrote:

Do you want Richard, Russell, and me to plan on attending the “Alan” meeting?

From: York, Alan <alan.york@adeq.state.ar.us>
Sent: Thursday, October 7, 2021 1:18 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Martinez, Maria <Martinez.Maria@epa.gov>; Berry, Natalie <Berry.Natalie@epa.gov>
Subject: RE: ADEQ proposal of Rule 2 to the Commission

Natalie can coordinate with me. In light of me being unaware that DEQ leadership was aiming for an in-person meeting that same week, I apologize. I was mistakenly under the impression they were aiming for a later timeframe.

Thanks,

Alan J. York | Associate Director
Division of Environmental Quality | **Office of Water Quality**
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.683.6372 | e: Alan.York@adeq.state.ar.us
<image001.png>

From: Maguire, Charles [<mailto:maguire.charles@epa.gov>]
Sent: Thursday, October 7, 2021 12:56 PM
To: York, Alan <alan.york@adeq.state.ar.us>
Cc: Martinez, Maria <Martinez.Maria@epa.gov>; Berry, Natalie <Berry.Natalie@epa.gov>
Subject: Re: ADEQ proposal of Rule 2 to the Commission

Ok with us - so can I get Natalie to work with someone in your shop to set it up?

Sent from my iPhone

On Oct 7, 2021, at 11:34 AM, York, Alan <alan.york@adeq.state.ar.us> wrote:

Charles,

I wanted our staffs to meet before the larger meeting that is being contemplated. I believe we can identify, and hopefully solve, many of the individual sticking points prior to the larger meeting. DEQ leadership is aware that I am attempting to continue the discussion during this interim period.

Thanks,

Alan J. York | Associate Director
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5301 Northshore Drive | North Little Rock, AR 72118
t: 501.683.6372 | e: Alan.York@adeq.state.ar.us
<image001.png>

From: Maguire, Charles [<mailto:maguire.charles@epa.gov>]
Sent: Thursday, October 7, 2021 11:06 AM
To: York, Alan <alan.york@adeq.state.ar.us>
Cc: Nelson, Russell <nelson.russell@epa.gov>; Wassell, Stacie <wassell@adeq.state.ar.us>; Martin, Joe <Joe.Martin@adeq.state.ar.us>; Hicks, Basil <hicks@adeq.state.ar.us>
Subject: Re: ADEQ proposal of Rule 2 to the Commission

Thanks
I think a meeting is in planning stage

Sent from my iPhone

On Oct 7, 2021, at 10:51 AM, York, Alan <alan.york@adeq.state.ar.us> wrote:

Charles,

Joe Martin passed the attached email along to make me aware of the communication with Region 6 staff. I can confirm that we will not be proceeding with the proposed Rule 2 revisions at the October 22 hearing. At this point, the intention is to proceed at the December 3rd hearing.

I feel it would be beneficial for EPA Region 6 and DEQ to have a discussion about the Rule 2 revisions and DEQ's intent with those revisions. I think there is some misunderstanding by Region 6 staff of DEQ's position on the revision, and I think there is, at the least, an incomplete understanding by DEQ of the position EPA has taken in this matter. We would like the opportunity to explain our position, and the basis for our position, at the earliest convenient time. Likewise, we would like the opportunity to hear more about Region 6's position in the matter. I believe DEQ and EPA's goals are similar, and that a discussion between staffs can be helpful as we move forward.

I would like DEQ OWQ staff and Region 6 staff to have a virtual meeting the week of October 18. Looking at DEQ calendars, the morning of the 18th, morning of the 20th, or afternoon of the 20th are the most open at this point. If those times do not work for Region 6 staff, please let me know and we will be as adaptable as possible.

I intend to include the following DEQ staff:

Stacie Wassell, Deputy Associate Director DEQ-OWQ
Joe Martin, Branch Manager - Water Quality Planning DEQ-OWQ
Basil Hicks, E&E - Office of Chief Counsel

Please feel free to get in touch if you would like to discuss.

Thanks,

Alan J. York | Associate Director
Division of Environmental Quality | Office of Water Quality
5301 Northshore Drive | North Little Rock, AR 72118

From: Martin, Joe
Sent: Wednesday, October 6, 2021 2:46 PM
To: York, Alan <alan.york@adeq.state.ar.us>
Subject: FW: ADEQ proposal of Rule 2 to the Commission

From: Nelson, Russell [<mailto:nelson.russell@epa.gov>]
Sent: Wednesday, October 6, 2021 12:48 PM
To: Martin, Joe; Barnett, Mary
Subject: ADEQ proposal of Rule 2 to the Commission

Hi Joe and Mary.

I have been in contact with Charles Moulton, the Admin. Law Judge for the Commission regarding my (and as it turns out, potentially attorney's for EPA's External Civil Rights Compliance Office) remote attendance at the upcoming meeting with the expectation that DEQ was intending to ask the Commission to adopt proposed amendments to Rule 2 at their October 22nd meeting. Mr. Moulton relayed to me that he was informed this morning that DEQ not intend to ask the Commission to adopt proposed amendments to Rule 2 at the upcoming meeting. Can y'all confirm that? Does DEQ intended to move forward with asking the Commission to adopt revisions in the next scheduled Commission meeting on December 3rd ?

I appreciate any information you can relay.

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Sent: Thur 10/7/2021 6:59:51 PM (UTC)
Subject: Re: ADEQ proposal of Rule 2 to the Commission

Just let us know what works for ya'll

Sent from my iPhone

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Please feel free to get in touch if you would like to discuss.

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<image001.png>

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To: Martin, Joe; Barnett, Mary

Subject: ADEQ proposal of Rule 2 to the Commission

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Russell Nelson
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Dallas, TX 75270

Cell (972) 310-1539
(214) 665-6646
nelson.russell@epa.gov

"Follow the law. Follow the science. And be transparent."

B. Ruckelshaus

To: Tanimura, Erin[Tanimura.Erin@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Thur 10/7/2021 6:29:54 PM (UTC)
Subject: Re: ADEQ proposal of Rule 2 to the Commission

All good

Sent from my iPhone

On Oct 7, 2021, at 1:00 PM, Tanimura, Erin <Tanimura.Erin@epa.gov> wrote:

Hi Charles – wanted to check if you’re good on this one now.

Erin

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Thursday, October 7, 2021 12:38 PM
To: Tanimura, Erin <Tanimura.Erin@epa.gov>
Subject: Fwd: ADEQ proposal of Rule 2 to the Commission

I haven’t heard back from David. Should I call?

Sent from my iPhone
Begin forwarded message:

From: "Maguire, Charles" <maguire.charles@epa.gov>
Date: October 7, 2021 at 12:00:45 PM CDT
To: "Gray, David" <gray.david@epa.gov>
Subject: Fwd: ADEQ proposal of Rule 2 to the Commission

Should I do a meeting?

Sent from my iPhone
Begin forwarded message:

From: "York, Alan" <alan.york@adeq.state.ar.us>
Date: October 7, 2021 at 11:34:11 AM CDT
To: "Maguire, Charles" <maguire.charles@epa.gov>
Subject: RE: ADEQ proposal of Rule 2 to the Commission

Charles,

I wanted our staffs to meet before the larger meeting that is being contemplated. I believe we can identify, and hopefully solve, many of the individual sticking points prior to the larger meeting. DEQ leadership is aware that I am attempting to continue the discussion during this interim period.

Thanks,

Alan J. York | Associate Director
Division of Environmental Quality | Office of Water Quality
5301 Northshore Drive | North Little Rock, AR 72118

From: Maguire, Charles [<mailto:maguire.charles@epa.gov>]
Sent: Thursday, October 7, 2021 11:06 AM
To: York, Alan <alan.york@adeq.state.ar.us>
Cc: Nelson, Russell <nelson.russell@epa.gov>; Wassell, Stacie <wassell@adeq.state.ar.us>;
Martin, Joe <Joe.Martin@adeq.state.ar.us>; Hicks, Basil <hicks@adeq.state.ar.us>
Subject: Re: ADEQ proposal of Rule 2 to the Commission

Thanks
I think a meeting is in planning stage

Sent from my iPhone

On Oct 7, 2021, at 10:51 AM, York, Alan <alan.york@adeq.state.ar.us> wrote:

Charles,

Joe Martin passed the attached email along to make me aware of the communication with Region 6 staff. I can confirm that we will not be proceeding with the proposed Rule 2 revisions at the October 22 hearing. At this point, the intention is to proceed at the December 3rd hearing.

I feel it would be beneficial for EPA Region 6 and DEQ to have a discussion about the Rule 2 revisions and DEQ's intent with those revisions. I think there is some misunderstanding by Region 6 staff of DEQ's position on the revision, and I think there is, at the least, an incomplete understanding by DEQ of the position EPA has taken in this matter. We would like the opportunity to explain our position, and the basis for our position, at the earliest convenient time. Likewise, we would like the opportunity to hear more about Region 6's position in the matter. I believe DEQ and EPA's goals are similar, and that a discussion between staffs can be helpful as we move forward.

I would like DEQ OWQ staff and Region 6 staff to have a virtual meeting the week of October 18. Looking at DEQ calendars, the morning of the 18th, morning of the 20th, or afternoon of the 20th are the most open at this point. If those times do not work for Region 6 staff, please let me know and we will be as adaptable as possible.

I intend to include the following DEQ staff:

Stacie Wassell, Deputy Associate Director DEQ-OWQ
Joe Martin, Branch Manager - Water Quality Planning DEQ-OWQ
Basil Hicks, E&E - Office of Chief Counsel

Please feel free to get in touch if you would like to discuss.

Thanks,

Alan J. York | Associate Director
Division of Environmental Quality | Office of Water Quality

From: Martin, Joe
Sent: Wednesday, October 6, 2021 2:46 PM
To: York, Alan <alan.york@adeq.state.ar.us>
Subject: FW: ADEQ proposal of Rule 2 to the Commission

From: Nelson, Russell [<mailto:nelson.russell@epa.gov>]
Sent: Wednesday, October 6, 2021 12:48 PM
To: Martin, Joe; Barnett, Mary
Subject: ADEQ proposal of Rule 2 to the Commission

Hi Joe and Mary.

I have been in contact with Charles Moulton, the Admin. Law Judge for the Commission regarding my (and as it turns out, potentially attorney's for EPA's External Civil Rights Compliance Office) remote attendance at the upcoming meeting with the expectation that DEQ was intending to ask the Commission to adopt proposed amendments to Rule 2 at their October 22nd meeting. Mr. Moulton relayed to me that he was informed this morning that DEQ not intend to ask the Commission to adopt proposed amendments to Rule 2 at the upcoming meeting. Can y'all confirm that? Does DEQ intended to move forward with asking the Commission to adopt revisions in the next scheduled Commission meeting on December 3rd ?

I appreciate any information you can relay.

Regards,

Russell

Russell Nelson
Regional Water Quality Standards Coordinator
Water Quality Protection (WDPQ)
U.S. EPA, Region 6
1201 Elm St., Suite 500
Dallas, TX 75270

Cell (972) 310-1539
(214) 665-6646
nelson.russell@epa.gov

"Follow the law. Follow the science. And be transparent."
B. Ruckelshaus

To: Martinez, Maria[Martinez.Maria@epa.gov]
From: Maguire, Charles[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Wed 1/26/2022 7:33:59 PM (UTC)
Subject: Re: Check-In - RE: Resend: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Yep
I'll check

Sent from my iPhone

On Jan 26, 2022, at 1:32 PM, Martinez, Maria <Martinez.Maria@epa.gov> wrote:

I think you were going to pass the Rule 2 letter by Cecil and Dr. Nance before we processed it for your signature. I had just resent it to you yesterday afternoon to package it so you could readily forward all the information to Cecil.

Does that sound right to you?

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Wednesday, January 26, 2022 1:27 PM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Subject: Re: Check-In - RE: Resend: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

I'm lost

Sent from my iPhone

On Jan 26, 2022, at 1:07 PM, Martinez, Maria <Martinez.Maria@epa.gov> wrote:

We are still standing by for the go ahead for the finalization of the response letter to the APCE&E Commission on Rule 2.

From: Martinez, Maria
Sent: Tuesday, January 25, 2022 1:47 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>
Subject: Resend: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Charles,

The attached Word document contains the working draft of the response letter to the APCE&EC regarding the Rule 2 that will be discussed at the January 28, 2022 Commission Meeting. Also included are the two enclosures that are referenced in our letter. The letter has received concurrence from ECRCO.

Maria

From: Khan, Zahra <Khan.Zahra@epa.gov>
Sent: Tuesday, January 18, 2022 8:06 AM
To: Covington, Jeryl <Covington.Jeryl@epa.gov>; Maguire, Charles <maguire.charles@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>

ED_006641_00001085-00001

Cc: Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Hoang, Anhthu <Hoang.Anhthu@epa.gov>
Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

FYI, I have received the following from DEQ rep, Basic Hicks.

From: Hicks, Basil <hicks@adeq.state.ar.us>
Sent: Friday, January 14, 2022 12:50 PM
To: Khan, Zahra <Khan.Zahra@epa.gov>
Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Zahra,

I am forwarding this to you to keep you up to date on this matter.

Please let me know if you have any questions or if you would like to talk.

Thank you,

Basil V. Hicks III | Attorney Supervisor
Energy and Environment | **Office of Chief Counsel**
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0884 | e: hicks@adeq.state.ar.us



From: McAlister, Michael
Sent: Friday, January 14, 2022 10:23 AM
To: Moulton, Charles; Goff, Patricia
Cc: Hicks, Basil; York, Alan; Alberg, Peter
Subject: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Judge Moulton and Secretary Goff,
DEQ respectfully requests that consideration of DEQ's pending motion to adopt proposed changes to Rule 2 (filed in the above-referenced docket on 08/09/2021, with Exhibits B-1, C-1, and C-2 as filed on 11/24/2021) be placed on the agenda for decision at the Commission's next upcoming meeting on January 28, 2022.

DEQ also submits a revised Proposed Minute Order (Exhibit F, attached hereto) to replace the previously submitted proposals and to be included as part of the submission for consideration and approval.

Please be advised that DEQ is providing notice of this request to Charles W. Maguire, Director – Water Division, EPA Region 6.

Please contact me if you have any questions regarding this request.

Thank you,

Michael McAlister | Deputy Chief Counsel
Energy and Environment | **Office of Chief Counsel**
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0918 | e: mcalist@adeq.state.ar.us



ARKANSAS

ENERGY & ENVIRONMENT

To: Martinez, Maria[Martinez.Maria@epa.gov]
From: Maguire, Charles[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Tue 11/30/2021 4:03:36 PM (UTC)
Subject: Re: Update: ADEQ 27R-16-R6

Yes
Call the 214 cell number a

Sent from my iPhone

On Nov 30, 2021, at 9:59 AM, Martinez, Maria <Martinez.Maria@epa.gov> wrote:

Please see the email immediately below from Mr. Moulton (Chairs of APC&E Commission). The Branch program folks talked with Renea this morning. Can we talk for 5 minutes?

From: Moulton, Charles <MOULTON@adeq.state.ar.us>
Sent: Monday, November 29, 2021 3:48 PM
To: Nelson, Russell <nelson.russell@epa.gov>
Cc: Richard Roper <rroper@bartonandroper.com>
Subject: APC&EC December 3rd meeting

Mr. Nelson –

I'm fairly confident you are already aware of this but Chairman Roper instructed me to let you know that DEQ's request for the PC&E Commission to adopt DEQ's proposed changes to Rule 2 is on the December 3, 2021, APC&EC agenda.

It's my understanding that a resolution of sorts has been reached between Region 6 and DEQ which has addressed, for now, Region 6's current concerns about Rule 2.

The December Commission meeting is in-person and it's my understanding it will be broadcast via DEQ's YouTube channel.

Best,

Charles Moulton | Administrative Law Judge
Energy & Environment | Pollution Control & Ecology Commission
3800 Richards Road | North Little Rock, AR 72117
t: 501.682.7890 | f: 501.682.7891 | e: moulton@adeq.state.ar.us
www.adeq.state.ar.us/commission/



ARKANSAS
ENERGY & ENVIRONMENT

To: Martinez, Maria[Martinez.Maria@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Tue 11/30/2021 5:53:29 PM (UTC)
Subject: RE: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

yes

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Tuesday, November 30, 2021 11:30 AM
To: Maguire, Charles <maguire.charles@epa.gov>
Subject: RE: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Marcia is on leave for the rest of the year. Do you want Renea to share with Zahra Khan (ECRCO) or do you want to share with Lilian? If I recall correctly, we received the information from Zahra originally.

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Tuesday, November 30, 2021 11:13 AM
To: Gray, David <gray.david@epa.gov>
Cc: Chiang, I-Jung <chiang.i-jung@epa.gov>; Dwyer, Stacey <Dwyer.Stacey@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>
Subject: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

David
I think I need to quickly correct this miscommunication from ADEQ to their Commission. Are you OK with this email response to the Commission's email to Russel?
I would like to send today. We are also making sure Marcia is aware, and as you can see ORC has reviewed.
Thanks
Charles

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Tuesday, November 30, 2021 11:00 AM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>
Subject: Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Charles,

Please see immediately below for our recommended draft email response to the APC&E's Commission contact Mr. Moulton.

Maria

From: Ryland, Renea <Ryland.Renea@epa.gov>
Sent: Tuesday, November 30, 2021 10:55 AM
To: Martinez, Maria <Martinez.Maria@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>; Medrano, Selena <Medrano.Selena@epa.gov>
Subject: RE: Input Needed by Noon Today, 11/30 - Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Looks good to me, although I might make a couple of clarifying edits. But just suggestions. Renea

Mr. Moulton,

My staff has forwarded the email below regarding DEQ's request for the PC&E Commission to adopt DEQ's proposed changes to Rule 2 on December 3, 2021, based on a presumption of a resolution between EPA Region 6 and DEQ. We believe that they may have been some miscommunication on this matter. Althoughsince EPA is in receipt of recent information from DEQ on November 24, 2021, specifically DEQ's proposal for no action on the specific issues previously in discussion, we have not yet responded. The EPA will be responding formally to DEQ on the current status of the situation in an upcoming letter. We will ensure that the Commission gets a copy of that response letter prior to the Commission meeting on December 3, 2021.

From: Moulton, Charles <MOULTON@adeq.state.ar.us>

Sent: Monday, November 29, 2021 3:48 PM

To: Nelson, Russell <nelson.russell@epa.gov>

Cc: Richard Roper <rroper@bartonandroper.com>

Subject: APC&EC December 3rd meeting

Mr. Nelson –

I'm fairly confident you are already aware of this but Chairman Roper instructed me to let you know that DEQ's request for the PC&E Commission to adopt DEQ's proposed changes to Rule 2 is on the December 3, 2021, APC&EC agenda.

It's my understanding that a resolution of sorts has been reached between Region 6 and DEQ which has addressed, for now, Region 6's current concerns about Rule 2.

The December Commission meeting is in-person and it's my understanding it will be broadcast via DEQ's YouTube channel.

Best,

Charles Moulton | Administrative Law Judge

Energy & Environment | Pollution Control & Ecology Commission

3800 Richards Road | North Little Rock, AR 72117

t: 501.682.7890 | f: 501.682.7891 | e: moulton@adeq.state.ar.us

www.adeq.state.ar.us/commission/



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Cc: Rauscher, Leslie[Rauscher.Leslie@epa.gov]; Hill, Troy[Hill.Troy@epa.gov]
To: Martinez, Maria[Martinez.Maria@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Mon 1/24/2022 11:27:45 PM (UTC)
Subject: Re: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2
[image001.png](#)
[image002.png](#)
[image001.png](#)
[image002.png](#)
[MARTINEZ 8 23 2021 APCEC Roper ltr Admin determination 8.23.21.pdf](#)
[EXHIBIT F - Proposed Minute Order-updated-20220114.pdf](#)
[Working Draft - EPA letter to ADPC&E January 2022.docx](#)

Yes get Lillian's input then I can send to Cecil

Sent from my iPhone

On Jan 24, 2022, at 4:27 PM, Martinez, Maria <Martinez.Maria@epa.gov> wrote:

Charles,

The attached Word document contains the working draft of the response letter to the APCE&EC regarding the Rule 2 that will be discussed at the January 28, 2022 Commission Meeting. Also included are the two enclosures that are referenced in our letter. The letter was drafted by the Branch staff and Renea. Do you want to send it directly to Lilian Dorka for input? Renea recommends cc'ing Marcia Moncrieffe in the email to Lilian.

We stand by for next steps.

Maria

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Monday, January 24, 2022 9:15 AM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Cc: Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Agree...

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Monday, January 24, 2022 9:14 AM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Rauscher, Leslie <Rauscher.Leslie@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Renea and the rest of us recommend sending a letter similar to what we sent in August restating our position on Rule 2 and the necessary protections for Mossy Lake and Coffee Creek. Rob and Mike Schaub are working on it. We are using the August letter as a template and updating it...including a cc to Lilian Dorka. We will make sure to circulate it to ECRCO for input. We plan to have a draft to circulate by COB, Tuesday, 1/25.

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Monday, January 24, 2022 8:26 AM
To: Martinez, Maria <Martinez.Maria@epa.gov>

Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Should we send anything?

From: Martinez, Maria <Martinez.Maria@epa.gov>

Sent: Monday, January 24, 2022 8:23 AM

To: Maguire, Charles <maguire.charles@epa.gov>

Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Got it

From: Maguire, Charles <maguire.charles@epa.gov>

Sent: Monday, January 24, 2022 8:19 AM

To: Martinez, Maria <Martinez.Maria@epa.gov>

Cc: Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>

Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

fyi

From: Khan, Zahra <Khan.Zahra@epa.gov>

Sent: Tuesday, January 18, 2022 8:06 AM

To: Covington, Jeryl <Covington.Jeryl@epa.gov>; Maguire, Charles <maguire.charles@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>

Cc: Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Hoang, Anhthu <Hoang.Anhthu@epa.gov>

Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

FYI, I have received the following from DEQ rep, Basil Hicks.

From: Hicks, Basil <hicks@adeq.state.ar.us>

Sent: Friday, January 14, 2022 12:50 PM

To: Khan, Zahra <Khan.Zahra@epa.gov>

Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Zahra,

I am forwarding this to you to keep you up to date on this matter.

Please let me know if you have any questions or if you would like to talk.

Thank you,

Basil V. Hicks III | Attorney Supervisor

Energy and Environment | Office of Chief Counsel

5301 Northshore Drive | North Little Rock, AR 72118

t: 501.682.0884 | e: hicks@adeq.state.ar.us

From: McAlister, Michael

Sent: Friday, January 14, 2022 10:23 AM

To: Moulton, Charles; Goff, Patricia

Cc: Hicks, Basil; York, Alan; Alberg, Peter

Subject: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Judge Moulton and Secretary Goff,

DEQ respectfully requests that consideration of DEQ's pending motion to adopt proposed changes to Rule 2 (filed in the above-referenced docket on 08/09/2021, with Exhibits B-1, C-1, and C-2 as filed on 11/24/2021) be placed on the agenda for decision at the Commission's next upcoming meeting on January 28, 2022.

DEQ also submits a revised Proposed Minute Order (Exhibit F, attached hereto) to replace the previously submitted proposals and to be included as part of the submission for consideration and approval.

Please be advised that DEQ is providing notice of this request to Charles W. Maguire, Director – Water Division, EPA Region 6.

Please contact me if you have any questions regarding this request.

Thank you,

Michael McAlister | Deputy Chief Counsel
Energy and Environment | **Office of Chief Counsel**
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0918 | e: mcalist@adeq.state.ar.us

To: Garcia, David[Garcia.David@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Fri 11/30/2018 9:13:08 PM (UTC)
Subject: Fwd: HESI Third Party Rulemaking-Response to request for additional information
[EPA Letter 113018_Final.pdf](#)
[ATT00001.htm](#)
[QGT - ADEQ ltr 11-29-18.pdf](#)
[ATT00002.htm](#)
[HESI's Motion and Statement of Basis.pdf](#)
[ATT00003.htm](#)
[APCEC Order re HESI WQS.pdf](#)
[ATT00004.htm](#)

FYI

Sent from my iPhone

Begin forwarded message:

From: "Clem, Sarah" <CLEM@adeq.state.ar.us>
To: "Nelson, Russell" <nelson.russell@epa.gov>
Cc: "Osborne, Caleb" <osbornec@adeq.state.ar.us>, "Maguire, Charles" <maguire.charles@epa.gov>, "Crocker, Philip" <crocker.philip@epa.gov>
Subject: HESI Third Party Rulemaking-Response to request for additional information

Russell,

Please see the attached letter providing supporting and clarifying information referencing the revised criteria submitted on September 20, 2017 are temporary. HESI has also provided additional information in the above attachments. As always we can discuss if you have questions and please feel free to call. The hard copy will be mailed on Monday, December 3, 2018.

Sarah Clem

WQ Planning Branch Manager
Office of Water Quality
Arkansas Department of Environmental Quality
P: 501.682.0660
F: 501.682.0880



ARKANSAS
Department of Environmental Quality

NOV 30 2018

Russell Nelson
Regional Water Quality Standards Coordinator
Ecosystems Protection Branch, Water Division
U.S. EPA, Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

Re: Halliburton Energy Services Inc. (HESI) EIP Third Party Rulemaking

Dear Mr. Nelson,

ADEQ received your October 18, 2018 email requesting additional information on ADEQ's submittal of revisions to *Regulation No. 2: Regulation Establishing Water Quality Standards for Surface Water of the State of Arkansas*. These revisions were made in relation to the Third Party Rulemaking process initiated by HESI. This rulemaking was based on the provisions provided in Reg. No. 2, Appendix B, Environmental Improvement Project. The proposed revisions were submitted for EPA approval September 20, 2017. In your email, you requested any supporting submission documentation for the third party rulemaking to clarify the revised criteria are in fact temporary. You also requested, if the proposed criteria are temporary, references be provided to any submission documents which specify the duration of the criteria. Finally, you requested, if they are not temporary, an explanation be given as to how they would be consistent with a submission that refers to temporary criteria when they are permanent.

The proposed revisions submitted September 20, 2017 are temporary changes to APC&EC Regulation No. 2 in accordance with provisions for an Environmental Improvement Project (EIP) that will apply for a period of 12.3 years. This has been clearly documented throughout the rulemaking process.

In response to the specific questions presented, ADEQ provides the following response as well as the attached letter from representatives for HESI:

1. The revision is identified as temporary in the following documents submitted to EPA:
 - Exhibit C, pp. 2, 3, and 18
 - Exhibit E
 - Bureau of Legislative Research Questionnaire
 - Rules and Regulation Joint Committee Questionnaire
 - Notice of Intent for the EIP (27 occurrences)
 - EPA comments by Karen Kesler, Comment 35a
 - September 2016 EPA Letter from Karen Kesler
2. The duration of the temporary criteria is identified as 12.3 years in the following documents:
 - Petition to Initiate Rulemaking, p. 3

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

5301 NORTHSHORE DRIVE / NORTH LITTLE ROCK / ARKANSAS 72118-5317 / TELEPHONE 501-682-0744 / FAX 501-682-0880
www.adeq.state.ar.us

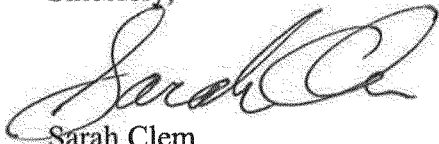
ED_006641_00001104-00001

- Public Notice
- Notice of Intent of the an Environmental Improvement Project, Section 7.2
- Remedial Action Decision Document (RADD), Table 10

The Department would like to reiterate the importance of timely action. Approval of the EIP will allow the continuation of a significant remediation project that has been a Department priority for decades. HESI has fallen behind schedule in its remediation efforts as a direct result of the EPA's delayed review of this proposed rulemaking.

If you have any questions or need additional information, please do not hesitate to call at 501-682-0660 or by email, clem@adeq.state.ar.us.

Sincerely,



Sarah Clem
ADEQ Branch Manager, WQ Planning

cc: Charles Maguire, Director, Water Division
Caleb J. Osborne, Associate Director, ADEQ Office of Water Quality

Attachment

Quattlebaum, Grooms & Tull

A PROFESSIONAL LIMITED LIABILITY COMPANY

111 Center Street
Suite 1900
Little Rock, Arkansas 72201
(501) 379-1700

Michael B. Heister
mheister@qgtlaw.com
Licensed in Arkansas and the District of Columbia

Direct Dial
501-379-1777
Direct Fax
501-379-3877

November 29, 2018

Via Email and First Class U.S. Mail

Sarah Clem
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5318

Re: Halliburton Energy Services, Inc. (HESI) Response Regarding Temporary Water
Quality Standard for the HESI Magcobar Site EIP

Dear Ms. Clem:

Thank you for forwarding the email from Mr. Russell Nelson, U.S. EPA Region 6, regarding HESI's temporary water quality standards ("WQS") that HESI had approved by the Arkansas Pollution Control and Ecology Commission ("APC&EC") last year. We were surprised that anyone at EPA expressed any concern about the WQS being temporary because, as a matter of law, the WQS approved by the APC&EC and sent to EPA are temporary standards to be used during the project with permanent, post-project WQS to be submitted to the APC&EC and EPA later. The law and related documents are clear about this.

HESI's site-specific WQS sent to EPA were implemented pursuant to APC&EC Regulation No. 2, Appendix B, which is a verbatim copy of Act 401 of 1997, so the statutory and regulatory requirements are identical (and have been approved by EPA). The statute/regulations provide altered standards only for purposes of implementing a long-term Environmental Improvement Project ("EIP"), and EIP projects are inherently of limited duration. The temporary nature of these project standards is confirmed by the statute/regulations requiring that at the end of the project there be post-project WQS that are in full force and effect. *See* APC&EC Regulation, No. 2, App. B, Section 3(a)(7). Of course, those post-project WQS can only be developed once the EIP project is complete and its impacts can be evaluated.

The statute/regulation also provide that the site remediation plan, "shall be considered an essential condition of the modified water quality standard." *See* APC&EC Regulation, No. 2, App. B, Section 4(a). The "Remediation Plan" is the "RADD" proposed by HESI in its October 2014 EIP NOI and issued by ADEQ on May 2016. Both the draft and issued RADD contain "Table 10 Implementation Schedule" that provides that within 160 months of the EIP being approved, the post-project WQS become effective (these are not the WQS currently before EPA, which are

intended for use while the project is underway). It is therefore an “essential” condition of HESI’s WQS being reviewed by EPA that they be superseded by permanent, post-project WQS per the timeline in Table 10 (as amended by ADEQ). Furthermore, HESI’s May 31, 2016, Consent Administrative Order (“CAO”) with ADEQ requires HESI to implement the RADD and specifically requires HESI to seek “temporary” WQS via rulemaking, which is precisely what occurred. The temporary nature of the WQS is therefore re-affirmed by the Remediation Plan, which is part of the standard, which HESI has agreed to implement via a CAO.

HESI has been clear in other publicly-noticed documents apart from the CAO that the current WQS are temporary. HESI’s October 29, 2014, Proposed Remediation Plan (which was attached to the EIP NOI), repeatedly described the WQS as “temporary” only. *See* Proposed Remediation Plan, Section 6.2; 6.3 (referring to “temporary criteria”). Section 7.2 of the EIP NOI contains additional scheduled dates affirming that the temporary WQS currently before EPA would be replaced once the EIP was complete. Indeed, HESI obtained the WQS from the APC&EC on the basis of them being temporary. HESI’s Statement of Basis and Purpose to the APC&EC, which is attached, stated that HESI’s rulemaking for revised WQS sought only a “temporary” modification and that once the remedy was complete, HESI would request a “permanent” WQS. The APC&EC granted HESI’s motion on August 25, 2017, based on this Statement of Basis and Purpose, as noted in the attached Order.

HESI’s WQS are therefore both temporary and subject to time limits and that has been made plain time and again in binding legal documents. We appreciate Mr. Nelson taking the time to provide detailed feedback, and I hope the foregoing assures him that his concerns are already addressed.

Please let me know if there’s any additional information I can provide that would be of assistance.

Sincerely,

QUATTLEBAUM, GROOMS & TULL PLLC



Michael B. Heister

MBH:lsw

Attachments

cc: Caleb J. Osborne, Associate Director (*via email and First Class U.S. Mail*)
David Martin (*via email*)
Jim McGinty (*via email*)
Jim Malcolm (*via email*)

**BEFORE THE ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

Secretary
Arkansas Pollution Control and Ecology
101 East Capitol, Suite 205
Little Rock, AR 72201
Filed 9:50 a.m.
8/9/17

IN THE MATTER OF REQUEST BY)
HALLIBURTON ENERGY SERVICES, INC.)
TO INITIATE RULEMAKING TO AMEND)
REGULATION NO. 2)

DOCKET NO. 16-003-R

**HALLIBURTON ENERGY SERVICES, INC.'S MOTION FOR FINAL APPROVAL OF
PROPOSED AMENDMENTS TO REGULATION NO. 2**

Petitioner, Halliburton Energy Services, Inc. ("HESI"), in support of its Motion For Final Approval of Proposed Amendments to Arkansas Pollution Control and Ecology Commission ("APC&EC" or "the Commission") Regulation No. 2 to amend chloride, sulfate, and total dissolved solids ("TDS") water quality standards for Chamberlain Creek and portions of Cove Creek, Lucinda Creek, Reyburn Creek, Rusher Creek, and Scull Creek (which includes Clearwater Lake), states as follows:

1. By Minute Order 16-11, adopted on July 22, 2016, the Commission granted HESI's Petition to Initiate Third-Party Rulemaking.
2. Public notice of the rulemaking was published in the *Arkansas Democrat-Gazette* on August 1st and 2nd of 2016. A public hearing was held at Magnet Cove High School in Magnet Cove, Arkansas, on September 27, 2016, at 6:00 p.m. No public comments were made at the hearing. The deadline for submitting written public comments was October 12, 2016.
3. HESI is filing its Statement of Basis and Purpose with this motion. It is attached hereto as Exhibit A.
4. HESI filed its Responsive Summary on December 8, 2016. A copy of it is attached hereto as Exhibit B. ADEQ filed its Responsive Summary on February 15, 2017, and it is part of the docket in this proceeding.

5. A final, revised regulation without strikethroughs or markups is attached hereto as Exhibit C.

6. A Regulation Tracking Sheet is attached hereto as Exhibit D.


7. On Monday, June 5, 2017, HESI and ADEQ appeared before the Joint House and Senate Public Health, Welfare and Labor Committee where HESI's third-party rulemaking was reviewed. On Tuesday, June 13, 2107, HESI and ADEQ appeared before the ALC Administrative Rules & Regulations Subcommittee where HESI's third-party rulemaking was reviewed and the subcommittee recommended that it be approved. HESI's third-party rulemaking was approved by the Legislative Council on June 16, 2017. Documented approval from the Governor's office and Legislative Council Committee is attached hereto as Exhibit E.

8. A Proposed Minute Order adopting the proposed revisions is attached hereto as Exhibit F.

WHEREFORE, HESI requests that the Commission adopt the amendments to APC&EC Regulation No. 2 as set forth in Exhibit C.

Respectfully submitted

QUATTLEBAUM, GROOMS
& TULL PLLC
111 Center Street, Suite 1900
Little Rock, AR 72201
Telephone: 501-379-1777
Fax: 501-379-3877

By 
Michael Heister, Ark. Bar No. 2002091
William A. Eckert III, Ark. Bar No. 78045

Counsel for Halliburton Energy Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of August, 2017, I served a copy of the foregoing Motion for Final Approval of Proposed Amendments to Regulation No. 2 on the following by United States Mail, first class postage prepaid:

Michael McAlister
Acting Chief Counsel, Legal Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118



Michael B. Heister

EXHIBIT A

**BEFORE THE ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

IN THE MATTER OF REQUEST BY)	
HALLIBURTON ENERGY SERVICES, INC.)	
TO INITIATE RULEMAKING TO AMEND)	DOCKET NO. 16-003-R
REGULATION NO. 2)	

**HALLIBURTON ENERGY SERVICES, INC.’S
STATEMENT OF BASIS AND PURPOSE**

Petitioner Halliburton Energy Services, Inc. (“HESI”), for its Statement of Basis and Purpose, states as follows:

1. HESI is currently implementing an Environmental Improvement Project (“EIP”) at the Dresser Industries Magcobar (“DIM”) Site. The EIP has been approved by the Arkansas Department of Environmental Quality (“ADEQ”).

2. The Arkansas Pollution Control and Ecology Commission (“APCEC” or “the Commission”) has the power and duty to promulgate rules and regulations prescribing water quality standards (“WQS”). Ark. Code Ann. § 8-4-202.

3. Arkansas Code Annotated Section 8-4-202(c) provides that any person has the right to petition APCEC for an amendment to any rule or regulation. In order to implement the EIP at the DIM Site, HESI filed on July 22, 2016, its petition to Initiate Third-Party Rulemaking to Amend APCEC Regulation No. 2. HESI’s Petition was submitted pursuant to, and in compliance with, APCEC Regulation No. 2, §§ 2.303 and 2.308, and APCEC Regulation No. 8, § 8.809. On July 22, 2016, the APCEC entered Minute Order 16-11 granting HESI’s Petition and initiated a rulemaking – Docket No. 16-003-R – on the changes proposed by HESI to Regulation No. 2.

4. Through the Petition, HESI seeks a temporary modification of the water quality standards in APCEC Regulation No. 2 for chloride, sulfate, and total dissolved solids (“TDS”) for


the following waterbodies: (1) Chamberlain Creek from headwaters to confluence with Cove Creek (1,384 mg/L sulfates; 2,261 mg/L TDS; 68 mg/L chlorides); (2) Cove Creek from the confluence with Chamberlain Creek to the Ouachita River (250 mg/L sulfates; 500 mg/L TDS); (3) Lucinda Creek from the confluence of Rusher Creek to the confluence with Cove Creek (250 mg/L sulfates; 500 mg/L TDS); (4) Reyburn Creek from headwaters to confluence of Francois Creek (250 mg/L sulfates; 500 mg/L TDS); (5) Rusher Creek from the confluence of East and West Forks to confluence with Lucinda Creek (250 mg/L sulfates; 500 mg/L TDS); and (6) Scull Creek from a point approximately 350 feet upstream of Clearwater Lake to Clearwater Lake (including Clearwater Lake) and from Clearwater Lake dam to confluence of Reyburn Creek (250 mg/L sulfates; 500 mg/L TDS).

5. HESI's Petition for site-specific modifications is supported by the following:
 - HESI is not seeking a change from historical water quality conditions in the relevant waterbodies. Rather, HESI seeks temporary water quality standards that allow HESI to implement an EIP approved by the ADEQ in compliance with applicable requirements, which is expected to improve water quality especially in Chamberlin Creek, while protecting the designated uses for these waterbodies.
 - There is no current economically feasible treatment for the removal of the minerals. Reverse osmosis treatment technology exists; but, it is not cost effective and generates a concentrated brine that is environmentally difficult to dispose of. It is not required to meet the designated uses and thus would produce no significant additional environmental protection.
 - 40 C.F.R. § 131.11(b)(1)(ii) authorizes states to adopt water quality standards that are "modified to reflect site-specific conditions."

- The proposed standards for Chamberlin Creek have been found to be not toxic based on approximately 34 whole effluent toxicity tests conducted on the treated water between June 2003 and June 2012.
- According to Arkansas Code Section 8-5-901 *et seq.*, the General Assembly has found that mineral extraction sites such as the one at issue would benefit from long-term environmental remediation projects, and ADEQ has concluded the EIP for the DIM Site qualifies.
- ADEQ sent a revised Remedial Action Decision Document proposing the EIP out for public comment in 2014. There were no adverse public comments to the performance of the EIP apart from two proposals from firms encouraging the use of their alternative, proprietary cleanup technology that ADEQ concluded were not proven.
- HESI and ADEQ will provide the Commission with annual reports regarding this project. Once the remedy is complete, HESI will conduct a Use Attainability Analysis (“UAA”) on the effected waterbodies that reflect the improvements resulting from the EIP and will request from the Commission a permanent change in WQS in the relevant waterbodies as supported by the results of the UAA.

Respectfully submitted

QUATTLEBAUM, GROOMS
& TULL PLLC
111 Center Street, Suite 1900
Little Rock, AR 72201
Telephone: 501-379-1777
Fax: 501-379-3877

By 

Michael Heister, Ark. Bar No. 2002091
William A. Eckert III, Ark. Bar No. 78045

Counsel for Halliburton Energy Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of August, 2017, I served a copy of the foregoing Statement of Basis and Purpose on the following by United States Mail, first class postage prepaid:

Michael McAlister
Acting Chief Counsel, Legal Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

A handwritten signature in black ink, appearing to read "Michael B. Heister", written over a horizontal line.

Michael B. Heister

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**



Regulation No. 2

**Regulation Establishing Water
Quality Standards for Surface
Waters of the State of Arkansas**

**Approved by Arkansas Pollution Control and Ecology Commission:
August 25, 2017**

FILED
AR REGISTER DIV.
2017 SEP -6 PM 4:03
MARK MARTIN
SECRETARY OF STATE
STATE OF ARKANSAS

ARKANSAS REGISTER

Transmittal Sheet

* Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State
Mark Martin
State Capitol, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-3527
www.sos.arkansas.gov



For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Pollution Control & Ecology Commission

Department Arkansas Department of Environmental Quality

Contact Michael McAlister E-mail McAlister@adeq.state.ar.us Phone 501-682-0918

Statutory Authority for Promulgating Rules Ark. Code Ann. §8-4-201 et seq

Rule Title: Regulation No. 2, Halliburton Energy Services, Inc.

Third-Party Rulemaking; Docket No. 16-003-R; Minute Order No. 17-22
Intended Effective Date _____ Date _____

(Check One)

☐ Emergency (ACA 25-15-204)

Legal Notice Published 08/01/16

☐ 30 Days After Filing (ACA 25-15-204)

Final Date for Public Comment 10/11/16

☒ Other 10 days after filing
(Must be more than 30 days after filing date.)

Reviewed by Legislative Council 06/13/17

Adopted by State Agency 08/25/17

Electronic Copy of Rule submitted under ACA 25-15-218 by:

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 the Arkansas Administrative Procedures Act. (ACA 25-15-201 et. seq.)



Signature

(501) 682-7890 moulton@adeq.state.ar.us

Phone Number

E-mail Address

Administrative Law Judge

Title

09/06/17

Date

MARK MARTIN
SECRETARY OF STATE
STATE OF ARKANSAS

2017 SEP 6 PM 4:03

FILED
AR REGISTER DIV.



ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION

101 EAST CAPITOL
SUITE 205
LITTLE ROCK, ARKANSAS 72201
PHONE: (501) 682-7890
FAX: (501) 682-7891

September 6, 2017

RECEIVED

SEP 6 2017

BUREAU OF
LEGISLATIVE RESEARCH

Ms. Donna Davis
Administrative Rules and Regulations Committee
Room 433, State Capitol Building
Little Rock, Arkansas 72201

RE: Regulation No 2, Halliburton Energy Services, Inc. Third-Party Rulemaking; Docket No. 16-003-R; Minute Order No. 17-22. - FINAL FILING.

Dear Ms. Davis:

I am enclosing the following for filing with your office:

1. One (1) hard copy of the amendment to Regulation No 2, Halliburton Energy Services, Inc. Third-Party Rulemaking.
2. One (1) copy of Commission Minute Order No. 17-22
3. One (1) copy of the Financial Impact Statement.

Please provide written confirmation of your receipt of these materials by file-marking the enclosed copy of this letter and returning it to me.

Thank you for your assistance in this matter.

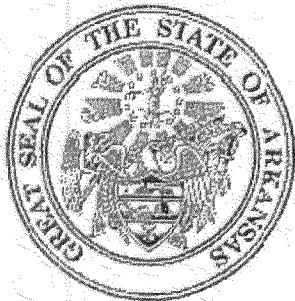
Respectfully,

A handwritten signature in cursive script that reads "Charles Moulton".

Charles Moulton
Administrative Law Judge

Enclosures

ARKANSAS STATE LIBRARY



Agency Certification Form For Depositing Final Rules and Regulations At the Arkansas State Library

Documents Services • Arkansas State Library
One Capitol Mall • Little Rock, AR 72201-1094
501-682-2326 Phone; 501-682-1532 FAX

ARKANSAS STATE LIBRARY

2017 SEP -6 PM 3:33

FILED
DOCUMENTS SERVICES

For Office Use Only

Effective Date:

Classification Number:

Name of Agency: Arkansas Department of Environmental Quality

Contact Person: Michael McAlister

Telephone: (501) 682-0918

Statutory Authority for Promulgating Rules: Ark. Code Ann. §8.4-201 et seq.

Title of Rule: Regulation No 2, Halliburton Energy Services, Inc. Third-Party Rulemaking; Docket No. 16-003-R; Minute Order 17-22

Rule Status	Effective Date Status	Effective Date
<input type="checkbox"/> New Rule/Regulation	<input type="checkbox"/> Emergency	
<input type="checkbox"/> Amended Rule/Regulation	10 Days after filing	September 16, 2017
<input type="checkbox"/> Repealed Rule/Regulation	<input type="checkbox"/> Other	
<input type="checkbox"/> Order	<input type="checkbox"/> Repealed	
<input type="checkbox"/> Emergency Rule/Regulation	Adopted by State Agency	

☐ Rule above is proposed and will be replaced by final version

☒ Financial and/or Fiscal Impact Statement Attached

Certification of Authorized Officer

I hereby certify that the attached rules were adopted in compliance with Act 434 of 1967 as amended.

Signature:

Chuck Monte

Date: September 6, 2017

Title: Administrative Law Judge

1/14/99

ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

SUBJECT-Regulation No. 2
Water Quality Standards
Third-Party Rulemaking
HALLIBURTON ENERGY SERVICES, INC.

DOCKET NO. 16-003-R

MINUTE ORDER NO. 17-22

PAGE 1 OF 1

Petitioner Halliburton Energy Services, Inc.'s (HESI's) Motion for Final Approval of Proposed Amendments to Regulation No. 2 is before the Arkansas Pollution Control and Ecology Commission. Pursuant to public notice and hearing, and in consideration of the Petition to Initiate Third Party Rulemaking, comments received during the public comment period, the Statement of Basis and Purpose, and other pleadings, exhibits, and evidence constituting the record in this docket, the Commission hereby grants the Motion for Final Approval of Proposed Amendments to Regulation No 2. The amendments to Regulation No. 2 found in the Final Revised Regulation, and attached to the Motion as Exhibit C, are hereby adopted.

PROMULGATED THIS 25TH DAY OF AUGUST 2017, BY ORDER OF THE ARKANSAS
POLLUTION CONTROL AND ECOLOGY COMMISSION

ATTEST:

Becky W Keogh
Becky Keogh, Director

BY:

M. Goggans
M. Goggans, Chairman

COMMISSIONERS:

<u>LB</u>	L. Bengal
<u>JSC</u>	J. Chamberlin
	J. Crow
<u>JSF</u>	J. Fox
<u>CG</u>	C. Gardner
<u>BH</u>	B. Holland

<u>DM</u>	D. Melton <i>RECUSED</i>
<u>SM</u>	S. Moss, Jr.
<u>RR</u>	R. Reynolds <i>RECUSED</i>
<u>WS</u>	W. Stites
<u>GW</u>	G. Wheeler
<u>BW</u>	B. White

MMA
Miles Goggans, Chair

SUBMITTED BY: Michael B. Heister

DATE: 08/25/2017

To: Martinez, Maria[Martinez.Maria@epa.gov]
From: Maguire, Charles[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Thur 10/14/2021 1:17:40 PM (UTC)
Subject: Fwd: Title Vi
2021.01.08 Final ADEQ Recip Resolution Ltr and IRA 27R-16-R6.pdf

Fyi

Sent from my iPhone

Begin forwarded message:

From: "Ryland, Renea" <Ryland.Renea@epa.gov>
Date: October 13, 2021 at 4:11:09 PM CDT
To: "Maguire, Charles" <maguire.charles@epa.gov>
Subject: RE: Title Vi

Hi Charles. Unfortunately, I don't. The closest thing I have is the letter from ECRCO forwarding the final resolution agreement to ADEQ (and attaching the resolution agreement itself). I'm forwarding it to you in case you don't have it handy. Sorry not to be more helpful. Renea

-----Original Message-----

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Wednesday, October 13, 2021 3:32 PM
To: Ryland, Renea <Ryland.Renea@epa.gov>
Subject: Title Vi

Do you have something that explains the Title VI complaint and agreement (briefly )?...

Sent from my iPhone

To: Gray, David[gray.david@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Tue 11/30/2021 7:42:58 PM (UTC)
Subject: RE: URGENT! Draft Email Response

Will try waiting on ECRCO to review.

From: Gray, David <gray.david@epa.gov>
Sent: Tuesday, November 30, 2021 1:32 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Chiang, I-Jung <chiang.i-jung@epa.gov>; Dwyer, Stacey <Dwyer.Stacey@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>
Subject: RE: URGENT! Draft Email Response

Can we get them our comments today? The deadline is quickly approaching.

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Tuesday, November 30, 2021 1:24 PM
To: Gray, David <gray.david@epa.gov>
Cc: Chiang, I-Jung <chiang.i-jung@epa.gov>; Dwyer, Stacey <Dwyer.Stacey@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>
Subject: RE: URGENT! Draft Email Response

I did
She knows we do not have a resolution yet.... They are waiting on our comments to decide if they should pull the rule down or go forward with some part.

From: Gray, David <gray.david@epa.gov>
Sent: Tuesday, November 30, 2021 12:00 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Subject: Re: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

call Julie

David Gray
Acting Regional Administrator
EPA Region 6 - Arkansas, Louisiana, New Mexico, Oklahoma, Texas
214-665-8120 o
214-789-2619 c

On Nov 30, 2021, at 11:59 AM, Maguire, Charles <maguire.charles@epa.gov> wrote:

No. They have lots of CWA issues with what they want to propose. We are going to give them comments on their proposal (probably tomorrow)... but at this point we are not even close.

From: Gray, David <gray.david@epa.gov>
Sent: Tuesday, November 30, 2021 11:56 AM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Chiang, I-Jung <chiang.i-jung@epa.gov>; Dwyer, Stacey <Dwyer.Stacey@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>
Subject: RE: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Have we agreed with ADEQ?

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Tuesday, November 30, 2021 11:13 AM

To: Gray, David <gray.david@epa.gov>

Cc: Chiang, I-Jung <chiang.i-jung@epa.gov>; Dwyer, Stacey <Dwyer.Stacey@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>;

Martinez, Maria <Martinez.Maria@epa.gov>

Subject: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

David

I think I need to quickly correct this miscommunication from ADEQ to their Commission. Are you OK with this email response to the Commission's email to Russel?

I would like to send today. We are also making sure Marcia is aware, and as you can see ORC has reviewed.

Thanks

Charles

From: Martinez, Maria <Martinez.Maria@epa.gov>

Sent: Tuesday, November 30, 2021 11:00 AM

To: Maguire, Charles <maguire.charles@epa.gov>

Cc: Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>

Subject: Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Charles,

Please see immediately below for our recommended draft email response to the APC&E's Commission contact Mr. Moulton.

Maria

From: Ryland, Renea <Ryland.Renea@epa.gov>

Sent: Tuesday, November 30, 2021 10:55 AM

To: Martinez, Maria <Martinez.Maria@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>; Medrano, Selena <Medrano.Selena@epa.gov>

Subject: RE: Input Needed by Noon Today, 11/30 - Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Looks good to me, although I might make a couple of clarifying edits. But just suggestions. Renea

Mr. Moulton,

My staff has forwarded the email below regarding DEQ's request for the PC&E Commission to adopt DEQ's proposed changes to Rule 2 on December 3, 2021, based on a presumption of a resolution between EPA Region 6 and DEQ. We believe that they may have been some miscommunication on this matter. Although since EPA is in receipt of recent information from DEQ on November 24, 2021, specifically DEQ's proposal for no action on the specific issues previously in discussion, we have not yet responded. The EPA will be responding formally to DEQ on the current status of the situation in an upcoming letter. We will ensure that the Commission gets a copy of that response letter prior to the Commission meeting on December 3, 2021.

From: Moulton, Charles <MOULTON@adeq.state.ar.us>

Sent: Monday, November 29, 2021 3:48 PM

To: Nelson, Russell <nelson.russell@epa.gov>

Cc: Richard Roper <rroper@bartonandroper.com>

Subject: APC&EC December 3rd meeting

Mr. Nelson –

I'm fairly confident you are already aware of this but Chairman Roper instructed me to let you know that DEQ's request for the PC&E Commission to adopt DEQ's proposed changes to Rule 2 is on the December 3, 2021, APC&EC agenda.

It's my understanding that a resolution of sorts has been reached between Region 6 and DEQ which has addressed, for now, Region 6's current concerns about Rule 2.

ED_006641_00001119-00002

The December Commission meeting is in-person and it's my understanding it will be broadcast via DEQ's YouTube channel.

Best,

Charles Moulton | Administrative Law Judge
Energy & Environment | Pollution Control & Ecology Commission
3800 Richards Road | North Little Rock, AR 72117
t: 501.682.7890 | f: 501.682.7891 | e: moulton@adeq.state.ar.us
www.adeq.state.ar.us/commission/
<image001.png>

To: Martinez, Maria[Martinez.Maria@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Tue 11/30/2021 7:52:00 PM (UTC)
Subject: RE: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Call Zahra to be sure we get a quick answer David needs it sent.

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Tuesday, November 30, 2021 1:48 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Subject: RE: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Will do.

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Tuesday, November 30, 2021 1:44 PM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Subject: RE: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Let Zahra know I have to send by COB today.

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Tuesday, November 30, 2021 1:29 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Subject: RE: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Got it. We have a draft letter with the Rule 2 redline/strikeout/annotation enclosure ready. We will send it to ECRCO (Zahra) for input.

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Tuesday, November 30, 2021 1:25 PM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Subject: RE: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

I called Julie.... No need to respond. They know we don't have a resolution yet. Russel should not respond to the email. They are waiting on our comments so we need to get them to them ASAP

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Tuesday, November 30, 2021 1:18 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Subject: FW: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Marcia is on leave the rest of the calendar year so I asked Renea to share it with Zahra Khan.

Is David o.k. with it?

From: Gray, David <gray.david@epa.gov>
Sent: Tuesday, November 30, 2021 11:56 AM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Chiang, I-Jung <chiang.i-jung@epa.gov>; Dwyer, Stacey <Dwyer.Stacey@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>
Subject: RE: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Have we agreed with ADEQ?

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Tuesday, November 30, 2021 11:13 AM

To: Gray, David <gray.david@epa.gov>

Cc: Chiang, I-Jung <chiang.i-jung@epa.gov>; Dwyer, Stacey <Dwyer.Stacey@epa.gov>; Hill, Troy <Hill.Troy@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>

Subject: URGENT! Draft Email Response to Commission - Update: ADEQ 27R-16-R6

David

I think I need to quickly correct this miscommunication from ADEQ to their Commission. Are you OK with this email response to the Commission's email to Russel?

I would like to send today. We are also making sure Marcia is aware, and as you can see ORC has reviewed.

Thanks

Charles

From: Martinez, Maria <Martinez.Maria@epa.gov>

Sent: Tuesday, November 30, 2021 11:00 AM

To: Maguire, Charles <maguire.charles@epa.gov>

Cc: Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>

Subject: Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Charles,

Please see immediately below for our recommended draft email response to the APC&E's Commission contact Mr. Moulton.

Maria

From: Ryland, Renea <Ryland.Renea@epa.gov>

Sent: Tuesday, November 30, 2021 10:55 AM

To: Martinez, Maria <Martinez.Maria@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>; Medrano, Selena <Medrano.Selena@epa.gov>

Subject: RE: Input Needed by Noon Today, 11/30 - Draft Email Response to Commission - Update: ADEQ 27R-16-R6

Looks good to me, although I might make a couple of clarifying edits. But just suggestions. Renea

Mr. Moulton,

My staff has forwarded the email below regarding DEQ's request for the PC&E Commission to adopt DEQ's proposed changes to Rule 2 on December 3, 2021, based on a presumption of a resolution between EPA Region 6 and DEQ. We believe that they may have been some miscommunication on this matter. Although since EPA is in receipt of recent information from DEQ on November 24, 2021, specifically DEQ's proposal for no action on the specific issues previously in discussion, we have not yet responded. The EPA will be responding formally to DEQ on the current status of the situation in an upcoming letter. We will ensure that the Commission gets a copy of that response letter prior to the Commission meeting on December 3, 2021.

From: Moulton, Charles <MOULTON@adeq.state.ar.us>

Sent: Monday, November 29, 2021 3:48 PM

To: Nelson, Russell <nelson.russell@epa.gov>

Cc: Richard Roper <rroper@bartonandroper.com>

Subject: APC&EC December 3rd meeting

Mr. Nelson –

I'm fairly confident you are already aware of this but Chairman Roper instructed me to let you know that DEQ's request for the PC&E Commission to adopt DEQ's proposed changes to Rule 2 is on the December 3, 2021, APC&EC agenda.

It's my understanding that a resolution of sorts has been reached between Region 6 and DEQ which has addressed, for now, Region 6's current concerns about Rule 2.

The December Commission meeting is in-person and it's my understanding it will be broadcast via DEQ's YouTube channel.

ED_006641_00001122-00002

Best,

Charles Moulton | Administrative Law Judge
Energy & Environment | Pollution Control & Ecology Commission
3800 Richards Road | North Little Rock, AR 72117
t: 501.682.7890 | f: 501.682.7891 | e: moulton@adeq.state.ar.us
www.adeq.state.ar.us/commission/



ARKANSAS
ENERGY & ENVIRONMENT

To: Gray, David[gray.david@epa.gov]
Cc: Tanimura, Erin[Tanimura.Erin@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Thur 7/2/2020 3:01:04 PM (UTC)
Subject: FW: Georgia Pacific Title VI Resolution
DRAFT Informal Resolution Agreement Complaint No 27R-16-R6_DEQ-edits 20200629.docx

FYI – just for your awareness.

From: Hayes, Mark <hayes.mark@epa.gov>
Sent: Thursday, July 2, 2020 9:56 AM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Cc: Maguire, Charles <maguire.charles@epa.gov>
Subject: Georgia Pacific Title VI Resolution

Maria,

Brief update. During a call on the GP Title VI complaint yesterday, it was initially requested that the Branch review applicable sections of the attached document. External Civil Rights Compliance Office (ECRCO) will revise before sending it to the Region for review. Marcia Moncrief has asked that we look specifically at changes that were made by Arkansas DEQ.

Mark A. Hayes, Chief
NPDES/Wetlands Review Section (WDPN)
EPA Region 6
1201 Elm Street, Ste 500
Dallas, TX 75270
214-665-2705

To: Martinez, Maria[Martinez.Maria@epa.gov]
From: Maguire, Charles[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Tue 11/30/2021 10:15:57 PM (UTC)
Subject: Re: ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)
[Exhibit B-1 Rule 2 - Supplemental Response to EPA Comment-20211119 \(2\).pdf](#)
[York Exhibit B-1 CCML draft3.docx](#)
[ARK Rule 2 2020 Revisions EPA redline draft 11-23.docx](#)

A little too strong at the end
Work with Troy
I have Class VI issue I am chasing

Sent from my iPhone

On Nov 30, 2021, at 2:38 PM, Martinez, Maria <Martinez.Maria@epa.gov> wrote:

The draft letter and enclosure are with ECRCO. See attached.

From: Ryland, Renea <Ryland.Renea@epa.gov>
Sent: Tuesday, November 30, 2021 2:31 PM
To: Khan, Zahra <Khan.Zahra@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>
Cc: Martinez, Maria <Martinez.Maria@epa.gov>; Wooster, Richard <Wooster.Richard@epa.gov>; Nelson, Russell <nelson.russell@epa.gov>; Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Tripathi, Arati <Tripathi.Arati@epa.gov>; McGuire, James <McGuire.James@epa.gov>; Andrews, Suzanne <Andrews.Suzanne@epa.gov>
Subject: ARK Reg. 2 WQS Revisions (ECRCO and the ADEQ Title VI case-EPA Complaint No. 27R-16-R6)
Importance: High

Good afternoon Zahra. This email is to update you guys on the latest regarding the Clean Water Act Mossy Lake/Coffee Creek issue – and to ask for your expedited review of the attached draft letter. I'm not sure if ECRCO received a copy of the Exhibit B-1 Supplemental Response document forwarded to the Region by ADEQ on November 24th, so I'm attaching a copy just to make sure. Region 6 is not in agreement with the approach outlined by ADEQ in this document, which delays action on Coffee Creek/Mossy Lake until the state's 2023 triennial revisions and makes no specific commitments as to what action, if any, the State will take with regard to these waters at that time.

We have been informed by an ALJ with the ADPC&EC that ADEQ's request for Commission approval of the Reg. 2 revisions is now on the Commission's Agenda for December 3, 2021 (this Friday) – and that the Commission is under the impression that EPA supports the revisions to Reg. 2 as they currently stand. Because this is not the case, the Region believes it is important to send a response to ADEQ's November 24th submittal as soon as possible in order to have EPA's position on the record prior to Friday's Commission meeting.

Our Division Director Charles Maguire would like to sign the attached response letter, accompanied by the redline/strikeout version of ADEQ's Reg. 2 proposed revisions, by COB today. We would like to copy ECRCO on the letter. If you guys could please take quick look at the draft letter and the enclosure to see if you have any questions or concerns, we would greatly appreciate it. The letter does not mention the Title VI Complaint. We apologize for the very quick turn-around, but as I mentioned, the Region only received ADEQ's supplemental response and news of the placement of this item on the Commission's December 3rd Agenda the day before the Thanksgiving holiday -- so things are moving at a very fast pace.

Thank you for your help on this. If you have any questions or concerns, please feel free to give me a call.

Thanks again! Renea

Cc: Chiang, I-Jung[chiang.i-jung@epa.gov]; Dwyer, Stacey[Dwyer.Stacey@epa.gov]
To: Gray, David[gray.david@epa.gov]
From: Maguire, Charles[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Fri 12/3/2021 10:41:04 PM (UTC)
Subject: Fwd: ADPC&E December 3, 2021 Agenda and Rule 2 Materials
12-3-2021 ADPC&E Commssion Meeting and Rule 2 Excerpts.docx

They did not address our comments on this.
Charles

Sent from my iPhone

Begin forwarded message:

From: "Martinez, Maria" <Martinez.Maria@epa.gov>
Date: December 3, 2021 at 4:03:06 PM CST
To: "Ryland, Renea" <Ryland.Renea@epa.gov>, "Hill, Troy" <Hill.Troy@epa.gov>, "Maguire, Charles" <maguire.charles@epa.gov>
Subject: ADPC&E December 3, 2021 Agenda and Rule 2 Materials

See attached file for Rule 2 excerpts.

From:
[https://www.adeq.state.ar.us/downloads/commission/agenda/2021-12-03_Commission_Agenda\(with_Attachments\).pdf](https://www.adeq.state.ar.us/downloads/commission/agenda/2021-12-03_Commission_Agenda(with_Attachments).pdf)

ADPC&E Commission

REGULAR COMMISSION MEETING

Friday, December 3, 2021 | 10:00 a.m. Commission Room AGENDA (Item #01)

- I. Call Meeting to Order
- II. II. Roll Call
- III. III. Approval of October 22, 2021, Commission Meeting (Item #02) Minutes
- IV. IV. A. Department Briefing Becky Keogh, ETE Secretary B. Administrator Address Julie Linck, Chief Administrator of the Environment
- V. V. Act 704 Rules Updates APPENDIX I - Docket No. 21-003-MISC (Items #03-26) - Michael McAlister for Division of Environmental Quality - Minute Order (Adopt)
- VI. VI. Rule No. 2, Rule Establishing Water Quality Standards for Surface APPENDIX II Waters of the State of Arkansas (Item #27-40) - Docket No. 20-004-R - Basil Hicks for Division of Environmental Quality - Minute Order (Adopt)
- VII. VII. Administrative Law Judge – Charles Moulton A. Settled Cases per Regulation No. 8 1. In the Matter of Nucor-Yamato Steel Company APPENDIX III - Docket No. 21-003-P (Items #41)
- VIII. VIII. Adjourn

To: York, Alan[alan.york@adeq.state.ar.us]
From: Maguire, Charles[O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FFBF83D93E5E4A688F150348BF84F40C-MAGUIRE, CH]
Sent: Fri 1/14/2022 5:13:19 PM (UTC)
Subject: Re: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Received

Sent from my iPhone

On Jan 14, 2022, at 11:09 AM, York, Alan <alan.york@adeq.state.ar.us> wrote:

Charles,
Please see the attached email submitted to Judge Moulton in the Rule 2 matter.

Please feel free to contact me if we need to discuss.

Thanks,

Alan

Sent from my iPhone

Begin forwarded message:

From: "Moulton, Charles" <MOULTON@adeq.state.ar.us>
Date: January 14, 2022 at 10:28:06 AM CST
To: "McAlister, Michael" <MCALISTER@adeq.state.ar.us>, "Goff, Patricia" <GOFFPATTI@adeq.state.ar.us>
Cc: "Hicks, Basil" <hicks@adeq.state.ar.us>, "York, Alan" <alan.york@adeq.state.ar.us>, "Alberg, Peter" <Peter.Alberg@adeq.state.ar.us>
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Thank you Michael.

Charles Moulton | Administrative Law Judge
Energy & Environment | Pollution Control & Ecology Commission
3800 Richards Road | North Little Rock, AR 72117
t: 501.682.7890 | f: 501.682.7891 | e: moulton@adeq.state.ar.us
www.adeq.state.ar.us/commission/



ARKANSAS
ENERGY & ENVIRONMENT

From: McAlister, Michael
Sent: Friday, January 14, 2022 10:23 AM
To: Moulton, Charles; Goff, Patricia
Cc: Hicks, Basil; York, Alan; Alberg, Peter

Subject: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Judge Moulton and Secretary Goff,

DEQ respectfully requests that consideration of DEQ's pending motion to adopt proposed changes to Rule 2 (filed in the above-referenced docket on 08/09/2021, with Exhibits B-1, C-1, and C-2 as filed on 11/24/2021) be placed on the agenda for decision at the Commission's next upcoming meeting on January 28, 2022.

DEQ also submits a revised Proposed Minute Order (Exhibit F, attached hereto) to replace the previously submitted proposals and to be included as part of the submission for consideration and approval.

Please be advised that DEQ is providing notice of this request to Charles W. Maguire, Director – Water Division, EPA Region 6.

Please contact me if you have any questions regarding this request.

Thank you,

Michael McAlister | Deputy Chief Counsel
Energy and Environment | **Office of Chief Counsel**
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0918 | e: mcalist@adeq.state.ar.us



To: Maguire, Charles[maguire.charles@epa.gov]
From: Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]
Sent: Mon 1/24/2022 2:27:47 PM (UTC)
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Let me consult with Renea and Rob but I think we would just say that our position hasn't changed. If we send anything we will probably need to consult with OCRCO.

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Monday, January 24, 2022 8:26 AM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Should we send anything?

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Monday, January 24, 2022 8:23 AM
To: Maguire, Charles <maguire.charles@epa.gov>
Subject: RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Got it

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Monday, January 24, 2022 8:19 AM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Cc: Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>
Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

fyi

From: Khan, Zahra <Khan.Zahra@epa.gov>
Sent: Tuesday, January 18, 2022 8:06 AM
To: Covington, Jeryl <Covington.Jeryl@epa.gov>; Maguire, Charles <maguire.charles@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>
Cc: Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Hoang, Anhthu <Hoang.Anhthu@epa.gov>
Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

FYI, I have received the following from DEQ rep, Basic Hicks.

From: Hicks, Basil <hicks@adeq.state.ar.us>
Sent: Friday, January 14, 2022 12:50 PM
To: Khan, Zahra <Khan.Zahra@epa.gov>
Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

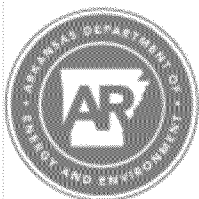
Zahra,

I am forwarding this to you to keep you up to date on this matter.

Please let me know if you have any questions or if you would like to talk.

Thank you,

Basil V. Hicks III | Attorney Supervisor
Energy and Environment | Office of Chief Counsel
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0884 | e: hicks@adeq.state.ar.us



ARKANSAS
ENERGY & ENVIRONMENT

From: McAlister, Michael

Sent: Friday, January 14, 2022 10:23 AM

To: Moulton, Charles; Goff, Patricia

Cc: Hicks, Basil; York, Alan; Alberg, Peter

Subject: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Judge Moulton and Secretary Goff,

DEQ respectfully requests that consideration of DEQ's pending motion to adopt proposed changes to Rule 2 (filed in the above-referenced docket on 08/09/2021, with Exhibits B-1, C-1, and C-2 as filed on 11/24/2021) be placed on the agenda for decision at the Commission's next upcoming meeting on January 28, 2022.

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Please be advised that DEQ is providing notice of this request to Charles W. Maguire, Director – Water Division, EPA Region 6.

Please contact me if you have any questions regarding this request.

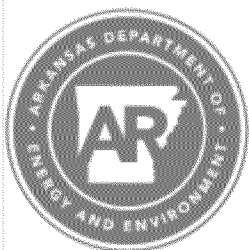
Thank you,

Michael McAlister | Deputy Chief Counsel

Energy and Environment | Office of Chief Counsel

5301 Northshore Drive | North Little Rock, AR 72118

t: 501.682.0918 | e: mcalist@adeq.state.ar.us



ARKANSAS
ENERGY & ENVIRONMENT

To: Maguire, Charles[maguire.charles@epa.gov]
From: Martinez, Maria[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C1654E39CA0B42EAABA9DE964612A0EA-MARTINEZ, MARIA]
Sent: Wed 1/26/2022 7:45:00 PM (UTC)
Subject: RE: Check-In - RE: Resend: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

o.k....we will stand by

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Wednesday, January 26, 2022 1:42 PM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Subject: RE: Check-In - RE: Resend: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

I-Jung has it

From: Martinez, Maria <Martinez.Maria@epa.gov>
Sent: Wednesday, January 26, 2022 1:33 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Subject: RE: Check-In - RE: Resend: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

I think you were going to pass the Rule 2 letter by Cecil and Dr. Nance before we processed it for your signature. I had just resent it to you yesterday afternoon to package it so you could readily forward all the information to Cecil.

Does that sound right to you?

From: Maguire, Charles <maguire.charles@epa.gov>
Sent: Wednesday, January 26, 2022 1:27 PM
To: Martinez, Maria <Martinez.Maria@epa.gov>
Subject: Re: Check-In - RE: Resend: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

I'm lost

Sent from my iPhone

On Jan 26, 2022, at 1:07 PM, Martinez, Maria <Martinez.Maria@epa.gov> wrote:

We are still standing by for the go ahead for the finalization of the response letter to the APCE&E Commission on Rule 2.

From: Martinez, Maria
Sent: Tuesday, January 25, 2022 1:47 PM
To: Maguire, Charles <maguire.charles@epa.gov>
Cc: Hill, Troy <Hill.Troy@epa.gov>; Rauscher, Leslie <Rauscher.Leslie@epa.gov>
Subject: Resend: Working Draft - RE: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Charles,

The attached Word document contains the working draft of the response letter to the APCE&EC regarding the Rule 2 that will be discussed at the January 28, 2022 Commission Meeting. Also included are the two enclosures that are referenced in our letter. The letter has received concurrence from ECRCO.

Maria

From: Khan, Zahra <Khan.Zahra@epa.gov>
Sent: Tuesday, January 18, 2022 8:06 AM
To: Covington, Jeryl <Covington.Jeryl@epa.gov>; Maguire, Charles <maguire.charles@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>
Cc: Moncrieffe, Marcia <Moncrieffe.Marcia@epa.gov>; Hoang, Anhthu <Hoang.Anhthu@epa.gov>
Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

FYI, I have received the following from DEQ rep, Basic Hicks.

From: Hicks, Basil <hicks@adeq.state.ar.us>
Sent: Friday, January 14, 2022 12:50 PM
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Subject: FW: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Zahra,

I am forwarding this to you to keep you up to date on this matter.

Please let me know if you have any questions or if you would like to talk.

Thank you,

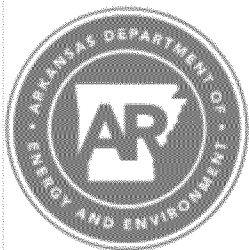
Basil V. Hicks III | Attorney Supervisor
Energy and Environment | Office of Chief Counsel
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0884 | e: hicks@adeq.state.ar.us



From: McAlister, Michael
Sent: Friday, January 14, 2022 10:23 AM
To: Moulton, Charles; Goff, Patricia
Cc: Hicks, Basil; York, Alan; Alberg, Peter
Subject: APCE&EC Meeting agenda for January 28, 2022 -- Docket no. 20-004-R, Motion to Adopt Amendments to Rule 2

Judge Moulton and Secretary Goff,
DEQ respectfully requests that consideration of DEQ's pending motion to adopt proposed changes to Rule 2 (filed in the above-referenced docket on 08/09/2021, with Exhibits B-1, C-1, and C-2 as filed on 11/24/2021) be placed on the agenda for decision at the Commission's next upcoming meeting on January 28, 2022.
DEQ also submits a revised Proposed Minute Order (Exhibit F, attached hereto) to replace the previously submitted proposals and to be included as part of the submission for consideration and approval.
Please be advised that DEQ is providing notice of this request to Charles W. Maguire, Director – Water Division, EPA Region 6.
Please contact me if you have any questions regarding this request.
Thank you,

Michael McAlister | Deputy Chief Counsel
Energy and Environment | Office of Chief Counsel
5301 Northshore Drive | North Little Rock, AR 72118
t: 501.682.0918 | e: mcalister@adeq.state.ar.us



ARKANSAS

ENERGY & ENVIRONMENT